

No. 10610

United States
Circuit Court of Appeals
For the Ninth Circuit.

JAMES GOODWIN POWELL and ANNA
STRACHAN POWELL, husband and wife,
Appellants,

vs.

PETER J. WUMKES,
Appellee.

Transcript of Record

Upon Appeal from the District Court of the United States
for the Southern District of California,
Central Division

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NAMES AND ADDRESSES OF ATTORNEYS:

For Appellants:

H. R. GRIFFIN

408-10 Katz Bldg.

San Bernardino, Calif.

For Appellee:

NICHOLS, COOPER and HICKSON and
C. P. VON HERZEN

412-18 First National Bldg.

Pomona, Calif. [1*]

*Page numbering appearing at foot of page of original certified Transcript of Record.

United States District Court, Southern District of
California, Central Division.

No. 36775-C

In the Matter of

JAMES GOODWIN POWELL and ANNA
STRACHAN POWELL,

Bankrupts

PETITION BY DEBTOR WITH SCHEDULES
A AND B

DEBTOR'S PETITION

In Proceedings Under Section 75 of the
Bankruptcy Act

To the Honorable.....
Judge of United States District Court
for the Southern District of California

The Petition of James Goodwin Powell and Anna
Strachan Powell, husband and wife, of 905 West
Lugonia Ave. Redlands, in the County of San Ber-
nardino and District and State of California

Trade, or Business of
Occupation, Citrus Growers

Respectfully Represents:

That they are personally bonifide engaged primarily
in farming operations (or that the principal part
of their income is derived from farming operations)
as follows: The growing of citrus products.

That said debtors further allege that all property

scheduled herein is jointly owned, and all debts scheduled herein are jointly owed, by said debtors, James Goodwin Powell and Anna Strachan Powell. That such farming operations occur in the county (or counties) of San Bernardino, within said judicial district; that they are insolvent (or unable to meet their debts as they mature); and that they desire to affect a composition or extension of time to pay their debts under section 75 of the Bankruptcy Act.

That the schedule hereto annexed, marked "A," and verified by your petitioner's oath, contains a full and true statement of all his debts, and (so far as it is possible to ascertain) the names and places of residence of their creditors, and such further statements concerning said debts as are required by the provisions of said act.

That the schedule hereto annexed, marked "B," and verified by your petitioner's oath, contains an accurate inventory of all their property, both real and personal, and such further statements concerning said property as are required by the provisions of said act.

Wherefore Your Petitioner Prays, That the petition may be approved by the Court and proceedings had in accordance with the provisions of said section.

JAMES GOODWIN POWELL

ANNA STRACHAN POWELL

Petitioners

H. R. GRIFFIN

Attorney for Petitioner

408 Katz Bldg., San Bernardino, California.

United States of America

Southern District of California—ss.

I, James Goodwin Powell and Anna Strachan Powell the Petitioning debtor mentioned and described in the foregoing petition, do hereby make solemn oath that the statements contained therein are true according to the best of my knowledge, information and belief.

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

Subscribed and sworn to before me, this 20th
day of July, A. D. 1940

[Seal]

H. R. GRIFFIN

Notary Public [2]

SUMMARY OF DEBTS AND ASSETS

Form

(From the Statements of the Bankrupt in Schedules A and B)

Schedule A....	1	(1) Taxes and Debts due United States	
"	A....	1 (2) Taxes due States, Counties, Districts and Municipalities	250.00
"	A....	1 (3) Wages	
"	A....	1 (4) Other debts preferred by law.....	
"	A....	2 Secured claims	22,270.15
"	A....	3 Unsecured claims	
"	A....	4 Notes and bills which ought to be paid by other parties thereto	
"	A....	5 Accommodation paper	
		Schedule A, total.....	22,520.15
Schedule B....	1	Real Estate	14,000.00
"	B....	2-a Cash on hand	
"	B....	2-b Bills, promissory notes and securities	
"	B....	2-c Stock in trade	
"	B....	2-d Household goods, etc.	500.00
"	B....	2-e Books, prints and pictures.....	50.00
"	B....	2-f Horses, cows and other animals..	
"	B....	2-g Carriages and other vehicles.....	450.00
"	B....	2-h Farming stock and implements..	65.00
"	B....	2-i Shipping and shares in vessels....	
"	B....	2-k Machinery, tools, etc.	
"	B....	2-l Patents, copyrights and trade marks	
"	B....	2-m Other personal property	
"	B....	3-a Debts due on open account.....	
"	B....	3-b Stocks, negotiable bonds, etc.....	
"	B....	3-c Policies of insurance	3,000.00
"	B....	3-d Unliquidated claims	
"	B....	3-e Deposits of money in banks and elsewhere	

Schedule A (2)—(Continued)

	Dollars	Cents
1 1938 Ford Sedan with an encumbrance thereon in favor of the Bank of America in the sum of \$450.00	450.00	
Total.....	22,270.15	

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL

Petitioner

(3)

[5]

SCHEDULE A (3)

Creditors Whose Claims Are Unsecured

(N. B.—When the name and residence (or either) of any drawer, maker, endorser or holder of any bill or note, etc., are unknown, the fact must be stated, also the name and residence of the last holder known to the debtor. The debt due to each creditor must be stated in full, and any claim by way of set-off stated in the schedule of property).

Reference to Ledger or Voucher—Names of Creditors—Residence (if unknown, that fact to be stated.) Where and when contracted —Nature and consideration of the debt, and whether any judgment, bond, bill of exchange, promissory note, etc., and whether contracted as partner or joint contractor with any other person, and if so with whom.

None

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL

Petitioner

(4)

[6]

SCHEDULE A (4)

Liabilities on Notes or Bills Discounted Which Ought to be Paid
by the Drawers, Makers, Acceptors or Indorsers

(N. B.—The dates of the notes or bills, and when due, with the names, residences, and the business or occupation of the drawers, makers or acceptors thereof, are to be set forth under the names of the holders. If the names of the holders are not known, the name of the last holder known to the debtor shall be stated, and his business and place of residence. The same particulars as to notes or bills, on which the debtor is liable as indorser.)

Place where contracted—Whether liability was contracted as partner or joint contractor or with any other person; and if so, with whom. Reference to Ledger or Voucher—Names of holders so far as known—Residence (if known, that fact must be stated).

Dollars Cents

None

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

(5)

[7]

SCHEDULE A (5)

Accommodation Paper

(N. B.—The dates of notes or bills, and when due, with the names and residences of the drawers, makers and acceptors thereof, are to be set forth under the names of the holders; if the bankrupt be liable as a drawer, maker, acceptor or indorser thereof, it is to be stated accordingly. If the names of the holders are not known, the name of the last holder known to the debtor should be stated, with his residence. Same particulars as to the other commercial paper).

Reference to Ledger or Voucher—Names of Creditors—Residence (if unknown, that fact to be stated). Where and when contracted—bill of exchange, promissory note, etc., and whether contracted as partner. Nature and consideration of the debt, and whether any judgment, bond, or joint contractor with any other person, and if so with whom.

Dollars Cents

None

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

Schedule B (1)—(Continued)

Dollars Cents

quarter of Section 21, Township 1 South, Range 3 West, San Bernardino Base & Meridian, in the City of Redlands, County of San Bernardino, State of California, according to Government Survey described as follows:

Beginning at a point on the east boundary line of the above described tract, which is 718.07 feet north from the southeast corner thereof; thence running north along the east boundary line thereof 597.08 feet, more or less, to the northeast corner of said tract; thence west along the north boundary line thereof, 311.13 feet, more or less, to a point which is 1,008.87 feet east from the northwest corner of said tract; thence southerly on a line parallel with the east boundary of said tract 597.08 feet, more or less, to a point due west of the point of beginning; thence east 311.13 feet, more or less, to the beginning.

Together with 5 shares of the capital stock of the Lugonia Water Company, a corporation	6,000.00
Total.....	14,000.00

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

(7)

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SCHEDULE B (2)

Personal Property

Dollars Cents

A. Cash on Hand

None

B. Bills of Exchange, promissory notes, or securities
of any description, (each to be set out separately).

None

C. Stock in trade in
atbusiness of
of the value of

None

Schedule B (2)—(Continued)

	Dollars	Cents
D. Household goods and furniture, household stores, wearing apparel and ornaments of the person, viz:		
	\$500.00	
Total.....	\$500.00	

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

(8) [10]

SCHEDULE B (2)—(Continued)

Personal Property

E. Books, prints and pictures, viz:	50.00
F. Horses, cows, sheep and other animals (with number of each), viz:	None
G. Carriages and other vehicles, viz:	
1 1938 Ford Sedan	450.00
H. Farming stock and implements of husbandry, viz:	
1 old Truck—\$25.00	
1 old Tractor—\$35.00	
1 Disc—\$5.00	65.00
Total.....	565.00

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

(9) [11]

SCHEDULE B (2)—(Continued)

Personal Property

I. Shipping and shares in vessels, viz:	None
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Schedule B (2)—(Continued)

	Dollars	Cents
K. Machinery, fixtures, apparatus and tools used in business, with the place where each is situated, viz: Miscellaneous hoes, spades, rakes, etc., being hand tools.		
L. Patents, copyrights and trademarks, viz:		None
M. Goods or personal property of any other description, with the place where each is situated, viz:		None

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

(10)

[12]

SCHEDULE B (3)

Choses in Action

A. Debts due petitioner on open account	None
B. Stock in incorporated companies, interest in joint stock companies, and negotiable bonds.	None
C. Policies of Insurance. Life Insurance Policy	\$3,000.00
D. Unliquidated Claims of every nature with their estimated value. A certain number of revolving certificates in the Redlands Heights Groves, Inc. packing house, the exact amount being undetermined. The proceeds from certain crops already picked by said Redlands Heights Groves, Inc. packing house, the same being undetermined.	
E. Deposits of money in banking institutions and elsewhere.	None

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

(11)

[13]

SCHEDULE B (4)

Property in Reversion, Remainder or Expectancy, Including
Property Held in Trust for the Debtor or Subject to Any
Power or Right to Dispose of or to Charge.

N. B.—A particular description of each interest must be entered. If all, or any of the debtor's property has been conveyed by deed of assignment or otherwise, for the benefit of creditors, the date of such deeds should be stated, then name and address of the person to whom the property was conveyed; the amount realized from the proceeds thereof, and the disposal of the same, as far as known to the debtor.

General Interest	Particular Description	Supposed Value of My Interest Dollars Cents	
Interest in land.	None		
Personal property.	None		
Property in money, stocks, shares, bonds, annuities, etc.	None		
Rights and powers, legacies and bequests.	None	Total.....	

Amount realized from
Proceeds of Property
Conveyed

Property heretofore conveyed for the benefit of Creditors.

What portion of Debtor's property has been conveyed by deed of assignment, or otherwise for benefit of creditors; date of such deed, name and address of party to whom conveyed; amount realized therefrom, and disposal of same, so far as known to debtor.

None

What sum or sums have been paid to counsel, and to whom for services rendered or to be rendered in this bankruptcy.

None

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

SCHEDULE B (5)

A particular statement of the Property claimed as Exempt from the Acts of Congress relating to Bankruptcy, giving each item of Property and its valuation; and if any portion of it is Real Estate, its location, description and present use.

Dollars Cents

Military uniforms, arms and equipments.

None

Property claimed to be exempt by State Laws; its valuation; whether real or personal; its description and present use; and reference given to the statute of the State creating the exemption.

Household Furniture \$500.00

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

(13)

[15]

SCHEDULE B (6)

Books, Papers, Deeds and Writings Relating to Bankrupt's
Business and Estate

The following is a true list of all books, papers, deeds and writings relating to my trade, business dealings, estate and effects, or any part thereof, which at the date of this petition, are in my possession, or under my custody or control, or which are in the possession or custody of any person in trust for me, or for my use, benefit or advantage; and also of all others which have been heretofore, at any time, in my possession or under my custody or control, and which are now held by the parties whose names are hereinafter set forth, with the reason for their custody of the same.

Dollars Cents

Books	None
Deeds	None
Papers	None

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioner

OATH TO SCHEDULE B

United States of America
Southern District of California
Central Division—ss.

On this 20th day of July, A. D. 19 , before me, personally came James Goodwin Powell and Anna Strachan Powell the person mentioned in and who subscribed to the foregoing schedule and who, being by me first duly sworn, did declare the said schedule to be a statement of all their estate, both real and personal, in accordance with the Acts of Congress relating to bankruptcy.

[Seal]

H. R. GRIFFIN
(Notary Public)

(14)

[Endorsed]: Filed July 25, 1940. [16]

[Title of District Court and Cause.]

APPROVAL OF DEBTOR'S PETITION
AND ORDER OF REFERENCE

(under Section 75 Bankruptcy Act)

At Los Angeles, in said District, on July 25, 1940, before the said Court the petition of James Goodwin Powell and Anna Strachan Powell, husband and wife, that they desire to effect a composition or an extension of time to pay their debts, and such other relief as may be allowed under the Act of March 3, 1933, and within the true intent and meaning of all the Acts of Congress relating to bankruptcy, having been heard and duly considered, the said petition is hereby approved accordingly.

It is thereupon ordered that said matter be referred to Fred Duffy, Esq., one of the Conciliation Commissioners in bankruptcy of this Court, to take such further proceedings therein as are required by said Acts; and that the said James Goodwin Powell and Anna Strachan Powell, husband and wife, shall attend before said Conciliation Commissioner on August 1, 1940, and at such time said Conciliation Commissioner shall designate, at his office in San Bernardino California, and shall submit to such orders as may be made by said Conciliation Commissioner or by this Court relating to said matter.

Witness, the Honorable Paul J. McCormick, Judge of said Court, and the seal thereof, at Los Angeles, in said District, on July 25, 1940.

R. S. ZIMMERMAN,

Clerk

By F. BETZ

Deputy Clerk

[Endorsed]: Filed July 25, 1940. [18]

[Title of District Court and Cause.]

AMENDED PETITION

To the Honorable Paul J. McCormick Judge of the District Court of the United States, for the District above set forth:

Your petitioners, the above named James Goodwin Powell and Anna Strachan Powell, would

show unto your Honor, that they did on the 20th day of July, 1940 file in this Court, a petition under Section 75 of the Bankruptcy Act, as amended, which petition is still pending, that they have been unable to obtain acceptance of the majority in number and amount of all creditors, whose claims are affected by the composition and extension proposal, which they submitted at the First Meeting of Creditors, to the Conciliation Commissioner, appointed by this Court.

That as permitted by the first paragraph of Sub Section (s) Section 75 of the Bankruptcy Act, as amended, they do hereby amend their petition heretofore filed on the 20th day of July, 1940 and they do substitute for the provisions of said petition as may be in conflict with this amendment, the contents of this amendment.

And They Pray that they may be adjudged Bankrupt, that proceedings may be had in regard to any and all property in conformity with the law in regard to procedure under Sub Section (s) of Section 75 of the Bankruptcy Act, as amended.

That all their property wherever located, whether pledged, encumbered or unencumbered, be appraised; that the unencumbered exemptions and unencumbered interest or equity in their exemptions as prescribed by the law of the State of California, [19] as set forth in the schedules heretofore filed in this matter, be set aside and set off to them; and that they be allowed to retain possession under the supervision and control of the Court, of any part or parcel or all of the remainder of property includ-

ing their unencumbered exemptions and pay for the same under the terms and conditions of Sub Section (s) of Section 75 of the Bankruptcy Act, as Amended.

He Further Pray for all needful and lawful proceedings under the provisions of law which do become applicable on the filing of this petition and particularly those provisions contained in Sub Section (s) of Section 75 of the Bankruptcy Act, as Amended.

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL
Petitioners

United States of America,
Southern District of California,—ss.
County of San Bernardino

James Goodwin Powell and Anna Strachan Powell, the petitioning debtors mentioned and described in the foregoing amended petition, do hereby make solemn oath that the statements contained herein are true to the best of my knowledge, information and belief.

JAMES GOODWIN POWELL
ANNA STRACHAN POWELL

Subscribed and sworn to before me this 17th day of October, 1940.

[Seal] H. R. GRIFFIN
Notary Public in and for said County and State.

[Endorsed]: Filed Oct. 24, 1940. [20]

[Title of District Court and Cause.]

CERTIFICATE OF CONCILIATION
COMMISSIONER

I, Fred Duffy, the Conciliation Commissioner of the above entitled Court, in and for the County of San Bernardino, do hereby certify that the Composition and/or Extension has failed, and I hereby make the following recommendation to the Honorable Judge of the above entitled Court, to-wit:

That James Goodwin Powell and Anna Strachan Powell be adjudicated bankrupt under and pursuant to Section 75 (s) of the Bankruptcy Act.

Dated: October 23rd, 1940.

FRED DUFFY

Conciliation Commissioner for
San Bernardino County,
California.

[Endorsed]: Filed Oct. 24, 1940 [22]

[Title of District Court and Cause.]

ADJUDICATION, ORDER OF REFERENCE,
AND TEMPORARY RESTRAINING OR-
DER

Under Section 75-s, Bankruptcy Act.

At Los Angeles, in said District, on October 24, 1940 before said Court in Bankruptcy, the Petition of James Goodwin Powell and Anna Strachan Powell, husband and wife debtors in the above-

termine value of real property of above named debtors.

That on the 22nd., day of April, 1943, Hearing of said petition was set by this commissioner, for the 18th day of May, 1943. Notice of said hearing was given by mail to all parties in interest.

That on the 18th day of May, 1943, said petition came on for hearing. Present at said hearing were debtors and their attorney, the Honorable H. R. Griffin, petitioning creditor Peter J. Wumkes, was not personally present, but was represented by his attorneys, Nichols, Cooper & Hickson, by Donald P. Nichols.

That on the 18th day of May, 1943, the petition or motion was denied.

That on the 1st., day of June, 1943, Order was entered by this commissioner, extending time for filing petition for review of order dated May, 18th., 1943, to the 1st. day of July, 1943. [25]

On the 3rd., day of June, 1943, Order was entered extending time for filing petition for review of commissioner's order, dated May, 18th., 1943, to June, 15th., 1943.

That on the 11th day of June, 1943, Creditor, Peter J. Wumkes, filed petition to review order of the Conciliation Commissioner, dated May, 18th., 1943.

SUMMARY OF EVIDENCE

No evidence to sustain allegations of petition for rehearing to determine value of real property was introduced on behalf of petitioner, Peter J. Wumkes. The matter resolved itself into a case of At-

torney for debtors arguing against granting of petition and Attorney for petitioning creditor, argued in favor of granting said petition.

Russell Goodwin, former attorney for petitioning creditor was present and testified that the last address and only address of Peter J. Wumkes, that he knew of was 922 East Lugonia Ave., Redlands, California. That Peter J. Wumkes, at one time furnished him, said Goodwin, a telephone number, Arizona 9-3551 Los Angeles, to call him at, that said Goodwin called said number on February, 13th., 1943, and was informed by telephone operator, no such number and no name listed thereunder. Said Russell Goodwin, exhibited to and left with this commissioner, two envelopes, one bearing postmark dated February, 12, 1943, and one bearing postmark, dated February 13th, 1943, which envelopes contained certain contents which were removed by said Goodwin, and the envelopes deposited with this commissioner, which said envelopes are hereto attached and made a part of this certificate.

QUESTION PRESENTED

The question presented by the petition for review is: Did the Conciliation Commissioner-Referee, err in denying petition or motion for rehearing to determine value of real [26] property of debtors.

PAPERS SUBMITTED

1. Petition for Rehearing to Determine Value of Real Property.

2. Notice of Hearing said Petition or Motion.
3. Order Denying said Petition or Motion for Rehearing.
4. Notice of entry of Order Denying Petition for Rehearing to determine value of Real Property.
5. Order extending time to file Petition for Review of Order, Dated May, 18th., 1943.
6. Order extending time to file Petition for Review.
7. Petition for Review.
8. Two envelopes deposited with Commissioner, by Russell Goodwin, addressed to Peter J. Wumkes, and returned to writer by United States Postoffice Department, with notation thereon. Dated July, 5th., 1943.

Respectfully submitted,

FRED DUFFY

Conciliation Commissioner-
Referee [27]

[Title of District Court and Cause.]

PETITION TO REVIEW ORDER OF THE
CONCILIATION COMMISSIONER UNDER
DATE OF MAY 18, 1943

Comes now your petitioner, Peter J. Wumkes,
and respectfully shows:

I.

Petitioner is a secured creditor of the above-named bankrupts, and filed his proof of secured

debt in these proceedings, which proof of debt was duly allowed. In this respect your petitioner specifically refers to the said proof of secured debt and incorporates it herein with the same force and effect as though set out in full.

II.

The above-captioned proceedings were instituted on the 25th day of July, 1940, and thereafter the proceedings were referred to Hon. Fred Duffy, United States Conciliation Commissioner for the County of San Bernardino. Thereafter and on or about the 25th day of October, 1940, the above-named bankrupts filed their amended petition and were duly adjudicated bankrupts under the provisions [28] of Sub-section (s) of Section 75 of the United States Bankruptcy Act. Thereafter, and on or about the 16th day of June, 1941, the said Conciliation Commissioner made and entered his order staying proceedings for a period of three years and setting as rental during such period one-quarter of the gross proceeds of all agricultural income produced on the agricultural real property of the above-named bankrupts, said rent to be paid annually commencing June 16, 1942. In this respect petitioner refers to and incorporates herein the said rent order and order staying proceedings with the same force and effect as though set out in full herein.

III.

Petitioner has not received any rent whatever pursuant to the order set out in Paragraph II

above from the Conciliation Commissioner nor from the bankrupts, or either of them, and in this respect petitioner is informed and believes and therefore alleges that the said rent order has not been honored with compliance and is now in default and has at all times mentioned herein been in default.

IV.

On or about the 23rd day of December, 1942, the above-named bankrupts filed a petition requesting a hearing to determine the value of the real property involved in the above-captioned proceedings, and thereafter, following several postponements, said petition came on for hearing before the said Conciliation Commissioner. At the time of the said hearing but prior to the introduction of any evidence therein, your petitioner's attorney requested the Conciliation Commissioner's permission to withdraw from the case and thereupon did withdraw from the case, leaving your petitioner unrepresented in the reappraisal proceedings which then followed. In this connection, petitioner had no prior knowledge whatever of his attorney's intention to withdraw, and by virtue of this fact was left unrepresented by counsel and totally unprepared [29] to present evidence regarding the value of the real property securing petitioner's claim or to rebut evidence introduced by the attorney for the bankrupts, and was without the legal skill and technical ability to cross-examine witnesses produced by the bankrupts through their counsel.

V.

Thereafter and on or about the 20th day of April, 1943, your petitioner filed with the said Conciliation Commissioner a petition for rehearing, which petition for rehearing was predicated on the facts and circumstances flowing from and surrounding the withdrawal of petitioner's attorney without notice to petitioner at a time when petitioner could not secure counsel for representation in the reappraisal proceedings.

VI.

Said petition for rehearing regularly came on for hearing May 18, 1943, and after hearing said petition the said Commissioner made and entered his order denying the petition for rehearing the bankrupts' petition to determine value of the real property concerned in these proceedings. Said order denying your petitioner's petition for rehearing was made and entered the day such petition was heard and is unsupported by findings or conclusions.

VII.

The order of May 18, 1943, denying your petitioner's petition for rehearing of the bankrupts' petition to determine value of the real property concerned in these proceedings is erroneous in the following particulars:

1. It was inequitable and improper for the Commissioner to deny petitioner a rehearing of the reappraisal proceedings where such denial would have the effect of preventing petitioner from ever presenting appropriate evidence regarding the value

of the real property underlying his secured claim through adequate counsel, and in this respect your petitioner urges that the [30] refusal of the Commissioner to grant a rehearing under the circumstances surrounding the original "hearing" is a deprivation of due process of law to your petitioner.

2. The said order of May 18, 1943, is unsupported by findings of fact or conclusions of law, particularly a finding of fact and a conclusion of law predicated thereupon to the effect that the rent order theretofore made and entered in these proceedings had been honored with compliance and was current.

Wherefore, Petitioner, feeling aggrieved by the provisions of said order of May 18, 1943, prays that it may be reviewed, as provided by the Bankruptcy Act and amended, modified or set aside in such respects as to the Court seems meet and equitable.

Respectfully submitted,

PETER J. WUMKES

Petitioner.

NICHOLS, COOPER & HICKSON,

By DONALD P. NICHOLS

Attorneys for Petitioner.

[Endorsed]: Filed 6/11/43. Fred J. Duffy,
Council, Comm. [31]

RUSSELL GOODWIN
ATTORNEY AT LAW
SECURITY FIRST NATIONAL BANK BUILDING
REDLANDS, CALIFORNIA

Returned
to
Walter
W. Winkles
REASON CHECKED
Unknown
For better address
Moved, Left no address
No such office in state

Dr. Peter J. Winkles
922 E. Luconia Avenue
Redlands, California

FEB 1 1943

RUSSELL GOODWIN
ATTORNEY AT LAW
SECURITY FIRST NATIONAL BANK BUILDING
REDLANDS, CALIFORNIA

Returned
to
Walter
W. Winkles
REASON CHECKED
Unknown
For better address
Moved, Left no address
No such office in state

Dr. Peter J. Winkles
922 E. Luconia Avenue
Redlands, California

REDLANDS
FEB 12 1943
CALIF.

[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR FILING
PETITION FOR REVIEW

It Is Hereby Ordered that the time for filing a Petition for Review of the Order denying the petition of Peter J. Wumkes for a rehearing to determine value of real property made on the 18th day of May, 1943, be, and the same is hereby extended to June 15th, 1943.

Dated this 3rd day of June, 1943.

FRED DUFFY

Conciliation Commissioner for
San Bernardino County,
California [34]

[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR FILING
PETITION FOR REVIEW

It is Hereby Ordered that the time for filing a Petition for Review of the order denying the petition of Peter J. Wumkes for a rehearing to determine value of real property made on the 18th day of May, 1943, be, and the same is hereby extended to July 1st, 1943.

Dated this 1st day of June, 1943.

FRED DUFFY

Conciliation Commissioner for
San Bernardino County,
California

[Endorsed]: Filed 6/1/43. Fred Duffy, Council
Comm. [35]

[Title of District Court and Cause.]

NOTICE OF ORDER DENYING PETITION
FOR REHEARING TO DETERMINE
VALUE OF REAL PROPERTY

To Peter J. Wumkes and his attorneys, Nichols, Cooper and Hixon, Esqs., and to all other creditors of James Goodwin Powell and Anna Strachan Powell, Redlands, San Bernardino County, and District and State aforesaid, Bankrupts:

Notice is hereby given that on the 18th day of May, 1943, the Honorable Fred Duffy, Conciliation Commissioner and Referee of the above-entitled Court, did duly and regularly after a hearing thereon, enter his order denying the Petition of Peter J. Wumkes for a rehearing to determine value of real property.

Dated this 18th day of May, 1943.

FRED DUFFY

Conciliation Commissioner and
Referee.

[Endorsed]: Filed 5/18/43. Fred Duffy, Council
Comm. [36]

[Title of District Court and Cause.]

ORDER DENYING PETITION FOR REHEAR-
ING TO DETERMINE VALUE OF REAL
PROPERTY

The above-entitled matter coming on regularly before the Honorable Fred Duffy, Conciliation Com-

missioner, of the above-entitled Court in and for the County of San Bernardino, State of California, on the 18th day of May, 1943, at the hour of 10 o'clock A. M., upon a Petition filed by Peter J. Wumkes, requesting a rehearing to determine the value of real property, and it appearing to the Court that due and regular notice of said hearing has been given in accordance with the law, and the said Peter J. Wumkes appearing by his attorneys, Nichols, Cooper and Hixon, and the debtor, James Goodwin Powell, appearing in person and through his attorney, H. R. Griffin, who also appeared for Anna Strachan Powell, the other debtor, and no further appearances being made; and evidence, both oral and documentary, having been introduced and witnesses examined, and the cause having been argued by respective counsel, and the matter being duly and regularly submitted to the Court, and the Court being fully advised of the law and the facts in the premises

Now, Therefore, It Is Hereby Ordered:

That the Petition of Peter J. Wumkes for rehearing to determine value of real property is hereby denied.

Dated this 18th day of May, 1943.

FRED DUFFY

Conciliation Commissioner for
San Bernardino County,
California.

[Endorsed]: Filed 5/18/43, Fred Duffy, Council
Comm. [37]

[Title of District Court and Cause.]

NOTICE OF HEARING

You and Each of You Will Please Take Notice that on the 18 day of May, 1943, at the hour of ten o'clock A. M., or as soon thereafter as counsel can be heard, at the office of Fred Duffy, Conciliation Commissioner for San Bernardino County, California, at #318 Katz Building, San Bernardino, Peter J. Wumkes, creditor of the above-named debtors will move the Court for an order of rehearing to determine value of real property of the above-named debtors upon which said creditor has a secured lien.

Said motion will be based upon the petition filed by the above-named creditor and the filings and records in the above-entitled matter.

Dated this 22 day of April, 1943.

FRED DUFFY

Conciliation Commissioner for
San Bernardino County,
California.

DPN:B

[Endorsed]: Rec'd and filed 4/20/43. Fred Duffy, Council Comm. [38]

[Title of District Court and Cause.]

PETITION FOR REHEARING TO DETER- MINE VALUE OF REAL PROPERTY

Comes now Peter J. Wumkes and respectfully represents as follows:

I.

That on or about the 25th day of July, 1940, the above-named Debtors filed their joint petition in the above entitled Court praying for relief as provided for in Section 75 of the Bankruptcy Act.

II.

That on or about the 25th day of October, 1940, said Debtors having been unable to secure acceptance or confirmation of an extension proposal filed their amended petition and were adjudicated bankrupts in accordance with the provisions of Section 75-s of the Bankruptcy Act.

III.

That thereafter, on or about the 1st day of November, 1940, an appraisal was made of the properties of Debtors and the property upon which your petitioner was a secured lien holder was thereupon appraised by one, George W. Holbrook, for the sum of \$5,200.00, which appraisal was, thereafter, on the 24th day of November, 1940, approved and confirmed by Honorable Fred Duffy, Conciliation Commissioner.

IV.

That on or about the 23rd day of December, 1942, the [39] said Debtors filed their joint petition requesting re-appraisal or hearing to determine value of their real property and that pursuant to said petition a meeting of creditors was called by the Honorable Fred Duffy, Conciliation Commissioner, to hear and determine the value of the Debtors'

real property, which hearing was set for the 2nd day of February, 1943, and thereafter continued for hearing, and the matter was finally heard on the 3rd day of March, 1943.

V.

That prior to the date set for the hearing of said petition to determine value of said property, your petitioner made several efforts to contact his attorney, Russell Goodwin, but was unable to do so and although your petitioner left his telephone number and address and requested that Goodwin contact him, your petitioner did not hear anything from his said attorney, Russell Goodwin, prior to the said date of March 3, 1943. That upon arrival at the said hearing, your petitioner's attorney requested to withdraw from the case. That your petitioner did not desire to retain counsel who did not wish to represent him and therefore consented to such withdrawal. That your petitioner believed that the said attorney, Russell Goodwin, had obtained witnesses for the purpose of assisting the Court in determining the true value of the property; that said attorney had done nothing in preparation for said hearing. That after he withdrew as counsel for your petitioner the hearing then proceeded, and while your petitioner was afforded the opportunity of cross-examining Debtors' witnesses, your petitioner felt he was without legal experience and did not know what questions could be asked of said witnesses. That your petitioner, through mistake and excusable neglect, was not afforded the

opportunity of subpoenaing witnesses on his behalf to attend said trial and to aid the Court in [40] determining the true value of said real property.

VI.

That on or about the 9th day of April, 1943, the Honorable Fred Duffy, Conciliation Commissioner, entered his order determining the value of the property upon which petitioner had his secured claim to be of the value of \$3,900.00. That in truth and in fact said property is reasonably valued far in excess of said amount and to allow Debtors to redeem said property at said price or to allow said valuation to stand, would result in a gross injustice and inequity as far as your petitioner is concerned.

VII.

That the secured lien of your petitioner on said property is in excess of \$14,000.00.

VIII.

That your petitioner believes, and therefore alleges, that he should be granted an opportunity to present testimony and produce evidence to show the true and correct value of said property, and requests that an order be made for a re-hearing of Debtors' petition for a determination of value of the property securing your petitioner's lien.

Wherefore, your petitioner prays that a time be set for the hearing of this petition and that thereafter the Court make its order allowing your

petitioner to present additional evidence and testimony regarding the value of said real property.

PETER J. WUMKES

Petitioner.

NICHOLS, COOPER & HICKSON,

Pomona, California.

Attorneys for Petitioner. [41]

State of California,

County of Los Angeles.—ss.

Peter J. Wumkes, being by me first duly sworn, deposes and says:— That he is the petitioner in the foregoing and above entitled action; that he has read the foregoing Petition for Rehearing to Determine Value of Real Property and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

PETER J. WUMKES

Subscribed and sworn to before me this 15th day of April, 1943.

[Seal]

ALICE M. KESTERSEN

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]: Rec'd and filed 4/20/43. Fred Duffy, Council Comm. [42]

[Endorsed]: Filed July 19, 1943. Edmund L. Smith, Clerk, by E. M. Enstron, Deputy.

[Title of District Court and Cause.]

CERTIFICATE ON REVIEW OF CONCILIATION COMMISSIONER'S ORDER OF APRIL, 9, 1943, FINDING VALUE OF REAL PROPERTY

I, Fred Duffy, Conciliation Commissioner of above entitled Court, for the county of San Bernardino, State of California, before whom above entitled matter is pending under proceedings pursuant to the provisions of Section 75 of the Bankruptcy Act.

Do Hereby Certify.

That above named debtors filed their petition in the of Extension Proposal by their creditors, did on the 25th day of July, 1940, that said petition was approved and the matter referred to Fred Duffy, Esq., Conciliation Commissioner, for further proceedings.

That debtors having failed to secure acceptance of Extension Proposal by their creditors, did on the 24th day of October, 1940, file in said Clerk's office, their Amended Petition under sub Section (s) of Section 75 of the Bankruptcy Act.

Debtors were adjudicated and matter referred to said Fred Duffy, acting as Referee for further proceedings. That certain proceedings were had thereon and on the 23rd., day of December, 1942, said debtors filed in the office of said Commissioner, a Petition requesting reappraisal or Hearing to determine value of debtors Real Property.

That said Real Property consists of two portions,

One, 5.78 acres on which one, Peter J. Wumkes, holds encumbrance and the other consisting of 4.20 acres, on which one, Frank C. Clark, holds encumbrance. That said two portions are joined and considered as one Orange Grove.

That the portion of said Real Property on Which Peter J. Wumkes, holds encumbrance, is unimproved except the Citrus Trees thereon. [43]

That on the 20th day of January, 1943, this Commissioner mailed to each creditor shown by the schedules on file herein, a Notice that Hearing on Petition to Determine value of debtors Real Property, would be held on the 2nd., day of February, 1943, at the hour of Ten O'Clock, A.M., at the office of said Conciliation Commissioner. (That Notice of said Hearing mailed to said Peter J. Wumkes, was returned to this Commissioner with a notation thereon, by the United States Postal Department, "Moved, left no address.")

That a few days prior to the 2nd., day of February, 1943, on the request of Attorneys for said Peter J. Wumkes, said Hearing was by this Commissioner, continued to the 16th day of February, 1943, at Ten O'Clock A. M. And—another continuance requested by said Attorneys, resulted in this Commissioner taking matter off calendar and new Notices of Hearing, mailed to each of the Creditors, by this Commissioner for Wednesday, the 3rd, day of March, 1943. (That by way of explanation, this Commissioner, received a communication from Hon. Garfield R. Jones, Supervising Conciliation Commissioner, that said Peter J. Wumkes, had con-

tacted a Deputy U. S. *States* Attorney, who in turn had contacted Mr. Jones, and then Mr. Jones had contacted said Wumkes and then furnished this Commissioner with the then address of said Peter J. Wumkes.)

That on the 3rd., day of March, 1943, said hearing to determine value of real property was held by this Commissioner, Present at said hearing were debtors, and their attorney Hon. H. R. Griffin, Creditors, Frank G. Clark, and his attorney. Henton S. Brennan, Peter J. Wumkes, and his attorney Russell Goodwin.

That prior to the opening of said hearing and before the appearance in Court of said Peter J. Wumkes, said attorney Russell Goodwin, requested this Commissioner acting as Referee, to allow him, said Goodwin, to withdraw as attorney for said Peter J. Wumkes, which said request was by this Commissioner, denied. At the beginning of said hearing, and before any testimony had been offered, said Goodwin again requested this Commissioner to be [44] allowed to withdraw as attorney for said Peter J. Wumkes, which said request was with the consent of said Peter J. Wumkes, allowed, and granted.

The matter then proceeded to hearing and evidence both documentary and oral was received.

That creditor, Peter J. Wumkes, was present during the taking of all testimony, was, by this Commissioner, asked if he cared to examine each witness produced, was asked if he had any evidence to introduce, in each case he answered in the nega-

tive and refused to ask any witness any questions or to testify himself or produce any evidence.

At the close of the testimony counsel present argued their case respectively and the matter was submitted for decision.

That on the 25th day of March, 1943, this Commissioner rendered his decision fixing value of debtors Real Property and mailed copy of said decision to each creditor present at said hearing and to debtors and attorneys for said debtors and said creditors, appearing.

That on the 2nd., day of April, 1943, Commissioner made his Findings of Fact and Conclusions of Law, in said matter and forwarded by mail to said debtors and to creditors appearing and to attorneys for said debtors and creditors.

That on the 9th day of April, 1943, this Commissioner, signed said Findings of Fact and Conclusions of Law.

That on the 15th day of April, 1943, creditor Frank G. Clark, filed his Petition for Review of the Order of this Commissioner, finding value of Real Property on which he, said Clark, held encumbrance. And on to-wit, the 11th day of May, 1943, said Clark withdrew his Petition for said Review.

That on the 20th day of April, 1943, Peter J. Wumkes, a secured creditor, filed with this Commissioner, *trhough* his attorneys Nichols, Cooper & Hickson, his Petition for Extension of Time to file petition for review, of Commissioner's Order of April, 9th., 1943, To June 1st., 1943, which said petition was granted by said Commissioner. [45]

On May 28th, 1943, Order was entered by Commissioner on request of attorneys for creditor Peter J. Wumkes, for extension of time to file petition for review of Order, dated April, 9, 1943 to June 15th., 1943.

That on June 11th., 1943, said Peter J. Wumkes, filed his petition to Review Conciliation Commissioner's Order of April, 9th, 1943.

SUMMARY OF THE EVIDENCE

Charles Aubrey, a licensed real estate broker and appraiser and until recently District Manager for Farm Security Administration for Riverside, and San Bernardino Counties, former Federal Land Bank appraiser for Southern California, who had appraised Citrus properties in the counties of San Bernardino, Riverside, Ventura, Orange, Los Angeles and other California counties, had appeared as an appraiser before the Federal Court on numerous occasions, fixed the value of debtors real property on which Peter J. Wumkes held encumbrance including water rights, at the sum of \$3900.00.

W. H. Johnson, a licensed real estate broker and appraiser, in connection with the Redlands Yucaipa Land Company for Ten years and who had *liver* in or about the city of Redlands for thirty two years, had been engaged in realty and appraisal business for many years, appraising both in this Court and the Superior Court of the state of California, testified that he had gone upon the property mentioned in this petition, had carefully platted a diagram of all the trees situate thereon, that he had spent sev-

eral days in his examination of said property and had taken numerous photographs of the same, which photographs were presented to the Court and introduced in evidence and that he had noticed that the Wumkes grove had been producing between one and a little more than two boxes to the tree with the exception of the years 1941-1942, when said grove produced a little more than three boxes to the tree.

[46]

Mr. Johnson then testified that in his opinion the Wumkes property including the Water Stock was of the value of \$3600.00.

That no further oral testimony or evidence was introduced at said Hearing and no request for continuance for the purpose of introducing additional evidence or otherwise was made by any party present. (After the withdrawal of Russell Goodwin, as attorney for Peter J. Wumkes, as hereinbefore shown, this commissioner, said "this is the time and place fixed for the Hearing petition to determine value of debtors real property, are you ready to proceed" no negative answer was interposed.)

I Further Certify, that all Orders of this Court, have been complied with by above named debtors, that all proceeds from crops raised and produced on the real property of debtors, has been deposited with this Commissioner, that all taxes both delinquent and current have been paid.

Question Presented

The question presented by the Petition for Review is:

Is there substantial evidence to sustain the Find-

ings of Fact, Conclusions of Law and Order of the Conciliation Commissioner in fixing the value of the property on which petitioning Creditor holds encumbrance at \$3900.00.

Papers Submitted

For the information of the Court, I am herewith submitting the following documents and exhibits.

1. Petition for Reappraisal of Hearing to determine value of debtors Real Property.

2. Notice of Hearing Petition to determine value of debtors Real Property.

3. Notice of Hearing Petition to determine value of debtors real property.

4. Exhibits -1-4-8-9-10-11-12-15-16 and 17, which were exhibits offered pertaining to property subject of this Review. [47]

5. Decision.

6. Findings of Fact and Conclusions of Law.

7. Order Determining Value of Debtors Real Property.

8. Notice of entry of said Order.

9. Petition of creditor Frank G. Clark, to Review Order of Conciliation Commissioner, of April, 9th., 1943, fixing value of debtors real property on which said Frank G. Clark, holds encumbrance.

10. Withdrawal of Petition for Review, last above mentioned.

11. Petition of Peter J. Wumkes, creditor, for Extension of time to file petition for Review of Order of Conciliation Commissioner, of April, 9th, 1943,

12. Order extending time to file petition for Review, last above mentioned.

13. Order extending time in same matter.

14. Petition of Creditor, Peter J. Wumkes, to Review Order of Conciliation Commissioner, of April, 9th., 1943.

15. Envelope containing Notice of Hearing Petition to determine value of debtors real property, addressed to Peter J. Wumkes, with notation of United States Postal Department, thereon.

Dated July 5th., 1943.

Respectfully submitted.

FRED DUFFY

Conciliation Commissioner-
Referee. [48]

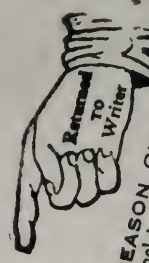
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA, CENTRAL DIVISION
FRED DUFFY
CONCILIATION COMMISSIONER
318 KATZ BLDG.
SAN BERNARDINO, CALIFORNIA
OFFICIAL BUSINESS



Penalty for Private Use \$300



Peter J. Wunkes -
Zone Redlands
California



Returned TO Writer
REASON CHECKED
Unclaimed.....Refused.....
Per better address.....
Moved, Left no address.....
No such office in state.....

[Title of District Court and Cause.]

PETITION TO REVIEW ORDER OF THE
CONCILIATION COMMISSIONER UN-
DER DATE OF APRIL 9, 1943

Comes now your petitioner, Peter J. Wumkes,
and respectfully shows:

I.

Petitioner is a secured creditor of the above-named bankrupts, and filed his proof of secured debt in these proceedings, which proof of debt was duly allowed. In this respect your petitioner specifically refers to the said proof of secured debt and incorporates it herein with the same force and effect as though set out in full.

II.

The above-captioned proceedings were instituted on the 25th day of July, 1940, and thereafter the proceedings were referred to Hon. Fred Duffy, United States Conciliation Commissioner for the County of San Bernardino. Thereafter, and on or about the 25th day of October, 1940, the above-named bankrupts filed their amended petition and were duly adjudicated bankrupts under the [50] provisions of Sub-section (s) of Section 75 of the United States Bankruptcy Act. Thereafter, and on or about the 16th day of June, 1941, the said Conciliation Commissioner made and entered his order staying proceedings for a period of three years and setting as rental during such period one-quarter of the gross proceeds of all agricultural in-

come produced on the agricultural real property of the above-named bankrupts, said rent to be paid annually commencing June 16, 1942. In this respect petitioner refers to and incorporates herein the said rent order and order staying proceedings with the same force and effect as though set out in full herein.

III.

Petitioner has not received any rent whatever pursuant to the order set out in Paragraph II above from the Conciliation Commissioner nor from the bankrupts, or either of them, and in this respect petitioner is informed and believes and therefore alleges that the said rent order has not been honored with compliance and is now in default and has at all times mentioned herein been in default.

IV.

On or about the 23rd day of December, 1942, the above-named bankrupts filed a petition requesting a hearing to determine the value of the real property involved in the above-captioned proceedings, and thereafter, following several postponements, said petition came on for hearing before the said Conciliation Commissioner. At the time of the said hearing but prior to the introduction of any evidence therein, your petitioner's attorney requested the Conciliation Commissioner's permission to withdraw from the case and thereupon did withdraw from the case, leaving your petitioner unrepresented in the reappraisal proceedings which then followed. In this connection, and through the circumstances of

the withdrawal of petitioner's attorney, as aforesaid, petitioner [51] was not afforded an opportunity of presenting appropriate evidence regarding the true value of the real property concerned in these proceedings.

V.

Thereafter and on or about the 9th day of April, 1943, Hon. Fred Duffy, United States Conciliation Commissioner for San Bernardino County, made and entered his order determining the value of the property securing your petitioner's claim herein at \$3900.00, which said order is erroneous in the following respects and particulars:

1. At the time said order of April 9, 1943, was made, the bankrupts, and each of them, were in default of the certain rent order heretofore made and entered in these proceedings.

2. The evidence was insufficient to support the findings of fact, and the findings of fact were in turn insufficient to support the conclusion that the value of the property securing your petitioner's claim was \$3900.00.

3. It was illegal, inequitable and improper for the Court to conduct the hearing on the petition for reappraisal at a time when your petitioner was unrepresented by counsel and totally unprepared to present evidence appropriate to establish the actual value of the real property securing your petitioner.

Wherefore, your petitioner, feeling aggrieved by the provisions of said order of April 9, 1943, prays that it may be reviewed as provided by the Bank-

ruptcy Act and amended, modified or set aside in such respects as to the Court seems meet and equitable.

Respectfully submitted,

PETER J. WUMKES

Petitioner.

NICHOLS, COOPER & HICKSON

By DONALD P. NICHOLS

Attorneys for Petitioner.

[Endorsed]: Filed 6/11/43. Fred Duffy, Council Comm. [52]

[Title of District Court and Cause.]

ORDER EXTENDING TIME FOR FILING
PETITION FOR REVIEW

It Is Hereby Ordered that the time for filing Petition for Review of the Order determining the value of real property entered on the 9th day of April, 1943, be, and the same is hereby extended to June 15th, 1943.

Dated this 28th day of May, 1943.

FRED DUFFY

Conciliation Commissioner for
San Bernardino County,
California [53]

[Title of District Court and Cause.]

CERTIFICATE EXTENDING TIME FOR
FILING PETITION FOR REVIEW

The petition of Peter J. Wumkes, creditor of the above-named debtors, having been filed and good cause appearing therefor

It Is Hereby Ordered that the time for filing a petition for review of the order determining value of real property entered on the 9th day of April, 1943 be and the same is hereby extended to June 1st, 1943.

Dated this 20th day of April, 1943.

FRED DUFFY

Conciliation Commissioner for
San Bernardino County,
California

DPN:B

[Endorsed]: Recd. and filed. Filed. Fred Duffy,
Council Comm. [54]

[Title of District Court and Cause.]

PETITION FOR CERTIFICATE EXTENDING
TIME FOR FILING PETITION FOR REVIEW

Comes now Peter J. Wumkes, one of the secured creditors of the above-named Debtors, and respectfully represents as follows:

I.

That on the 9th day of April, 1943, the Honorable Fred Duffy, Conciliation Commissioner and Referee

of the above entitled Court, regularly entered his order determining the value of the above Debtors' real property.

II.

That your petitioner has filed a petition for authority to re-open the hearing to determine value and be permitted to introduce evidence as to the actual value of said property.

III.

That the hearing on said petition has been set for a date in the future and your petitioner desires that the time be extended for filing a petition for review so as to permit your petitioner to have until June 1, 1943, to file his petition for review or appeal.

Wherefore, your petitioner prays that an order be made extending the time as in this petition requested.

PETER J. WUMKES

Petitioner.

NICHOLS, COOPER & HICKSON

Attorneys for Petitioner. [55]

State of California,

County of Los Angeles.—ss.

Peter J. Wumkes, being by me first duly sworn, deposes and says:— That he is the petitioner in the foregoing and above entitled action; that he has read the foregoing Petition for Certificate Extending Time for Filing Petition for Review and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are

therein stated upon his information or belief, and as to those matters that he believes it to be true.

PETER J. WUMKES

Subscribed and sworn to before me this 15th day of April, 1943.

[Seal] ALICE M. KESTERSEN

Notary Public in and for the County of Los Angeles, State of California.

[Endorsed]: Recd. and Filed 4/20/43. Fred Duffy, Council Comm. [56]

Henton S. Brenan

Attorney At Law

203-204 Security First National

Bank Building

Phone 4755

Redlands, California

May 11, 1943

Fred Duffy

Conciliation Commissioner

San Bernardino, Calif.

Re: James Goodwin Powell No. 36775-C

Dear Sir:

This letter is to inform you that we do not intend to pay the filing fee required to file our petition for a hearing on review by the creditor Frank Clark, and that you may withdraw the petition from your files.

Very truly yours,

b/p

HENTON S. BRENNAN [57]

[Title of District Court and Cause.]

PETITION FOR REVIEW OF ORDER OF
CONCILIATION COMMISSIONER

To The Honorable Fred Duffy, as Conciliation Commissioner of the Above Entitled District Court,
In and For the County of San Bernardino,
State of California:

The petition of Frank G. Clark, respectfully represents:

That your petitioner is a creditor of the above named debtor;

That your petitioner is a creditor by virtue of being the owner and holder of a certain promissory note executed by the debtors and secured by a deed of trust upon the real property described in the order hereinafter referred to; that the claim upon the balance due on said promissory note in the amount of approximately \$8221.62 has been allowed as a secured claim.

That on the 9th day of April an order was made and entered in the above entitled proceeding, a copy of which is hereto annexed and made a part hereof;

That by said order it is determined that the property described in said deed of trust and constituting the security for the indebtedness evidence by said promissory note, is of the value of \$3525.00;

That said order was and is erroneous for the following reasons:

a. That the valuation of the property aforesaid was and is the sum of \$6050.00. [58]

b. Said order and the valuation of said property thereby fixed are contrary to the evidence, in that:

1. The witness Charles Aubrey, appraiser for the debtor appraised the property of a value of \$4150.00,

2. The witness W. H. Johnson appraiser for the debtor appraised the property as of a value of \$3525.00,

3. The witness J. D. Inman, appraiser for the creditor herein appraised the property as of a value of \$6050.00,

4. The witness James Wheat appraiser for the creditor herein appraised the property as of a value of \$5500.00,

c. Said order and the valuation thereby fixed are not supported by the evidence.

Wherefore your petitioners pray that the said order may be reviewed by a Judge of this Court, as provided in the Acts of Congress relating to bankruptcy.

Dated this 14 day of April, 1943.

FRANK G. CLARK

State of California

County of San Bernardino

Frank G. Clark, being first duly sworn, deposes and says:

That he is the petitioner in the above petition; that he has read the foregoing petition and knows the contents of the same; that the same is true of his own knowledge, except as to those matters stated

therein on information and belief, and as to such matters he believes it to be true.

FRANK G. CLARK

Subscribed and sworn to before me this 14 day of April, 1943.

TERESA A. MILLER

Notary Public in and for said County and State

[Endorsed]: Filed 4/15/43. Fred Duffy, Council Comm. [59]

[Title of District Court and Cause.]

ORDER DETERMINING VALUE OF
DEBTOR'S REAL PROPERTY

The petition of the above named debtors requesting a court reappraisal or hearing to determine the value of debtors' real property, coming on regularly for hearing on the 2nd day of February, 1943, and upon the request of Attorney J. C. Sexton was duly and regularly continued until February 16, 1943, and again upon the request of said J. C. Sexton, until March 3, 1943, and on March 3, 1943 at the hour of 10:00 A. M. thereof, before the Honorable Fred Duffy, Conciliation Commissioner of the above entitled Court in and for the County of San Bernardino, State of California, appeared said debtors personally and through their Attorney, H. R. Griffin, Esq., and Frank G. Clark, personally, and through his attorney, Hempton S. Brenan, Esq., and Peter J. Wumkes, personally, and through his Attorney, Russell Goodwin, Esq.; that theretofore

said Russell Goodwin had requested the court to allow him to withdraw as attorney for the said Peter J. Wumkes, and said request had been denied, which said request was renewed upon the opening of said hearing and said Russell Goodwin was permitted to withdraw as attorney with the consent and approval of the said Peter J. Wumkes; and no appearance being made either in person or by counsel for any other creditor scheduled in the above-entitled proceeding; and evidence both oral and documentary having been introduced and witnesses examined on behalf of the debtors and the appearing creditors, and said [60] hearing having been concluded and the cause having been argued by respective counsel and submitted, and the court having duly made and entered its Findings of Fact and Conclusions of Law,

Now Therefore It Is Hereby Ordered, Adjudged and Decreed:

I.

That the value of Peter J. Wumkes' portion of the property on which the said Peter J. Wumkes has an encumbrance is of the value of \$3,900.00.

II.

That the value of the property on which Frank C. Clark holds an encumbrance is of the value of \$3,525.00.

III.

That the value of the entire property is the sum of \$7425.00.

IV.

That said debtors may redeem said property by paying into Court said sum of \$7,425.00 on or before the 16th day of June, 1944, of which sum of \$3,900.00 shall be paid to Peter J. Wumkes and the sum of \$3525.00 to said Frank J. Clark; provided, however, in case the order fixing value is appealed from debtors may redeem by paying into court, the said sum of \$7425.00 within three months from and after the date said Order on Appeal becomes final, and provided further, that in the event of the period of three months from and after the date of said Order on Appeal, becomes final, expires prior to the 16th day of June, 1944, debtors may have until the 16th day of June, 1944 to redeem said property by paying said sum of \$7425.00 into this court.

Provided further, that debtors, since they have retained possession of the properties involved in this hearing, they will be required to redeem both pieces of property if redemption is made.

Dated this 9th day of April, 1943.

(Signed) FRED DUFFY

Conciliation Commissioner-
Referee [61]

[Title of District Court and Cause.]

NOTICE OF ENTRY OF ORDER DETERMINING
VALUE OF DEBTORS' REAL PROPERTY

To the Creditors of James Goodwin Powell and Anna Strachan Powell, of Redlands, San Bernardino County, and District and State Aforesaid, Bankrupts:

Notice Is Hereby Given that on the 9th day of April, 1943, the Honorable Fred Duffy, Conciliation Commissioner and Referee of the above-entitled Court, did duly and regularly enter his Order Determining the Value of Said Debtors' Real Property.

Dated this 9th day of April, 1943.

FRED DUFFY

Conciliation Commissioner-
Referee.

[Endorsed]: Filed 4/9/43. Fred Duffy, Council Comm. [62]

[Title of District Court and Cause.]

ORDER DETERMINING VALUE OF
DEBTORS' REAL PROPERTY

The Petition of the above-named debtors requesting a court reappraisal or hearing to determine the value of debtors' real property, coming on regularly for hearing on the 2nd day of February, 1943, and upon the request of Attorney J. C. Sexton was

duly and regularly continued until February 16, 1943, and again upon the request of said J. C. Sexton, until March 3, 1943, and on March 3, 1943 at the hour of 10:00 A. M. thereof, before the Honorable Fred Duffy, Conciliation Commissioner of the above-entitled court in and for the County of San Bernardino, State of California, appeared said debtors personally and through their Attorney, H. R. Griffin, Esq., and Frank G. Clark, personally, and through his Attorney, Hempton S. Brennan, Esq., and Peter J. Wumkes, personally, and through his Attorney, Russell Goodwin, Esq.; that theretofore said Russell Goodwin had requested the court to allow him to withdraw as attorney for the said Peter J. Wumkes and said request had been denied, which said request was renewed upon the opening of said hearing and said Russell Goodwin was permitted to withdraw as attorney with the consent and approval of the said Peter J. Wumkes; and no appearance being made either in person or by counsel for any other creditor scheduled in the above-entitled proceeding; and evidence both oral and documentary having been introduced and witnesses examined on behalf of the debtors and the appearing creditors, and said hearing [63] having been concluded and the cause having been argued by respective counsel and submitted, and the court having duly made and entered its Findings of Fact and Conclusions of Law.

Now, Therefore, It Is Hereby Ordered, Adjudged and Decreed:

I.

That the value of Peter J. Wumkes' portion of the property on which the said Peter J. Wumkes has an encumbrance is of the value of \$3,900.00.

II.

That the value of the property on which Frank C. Clark holds an encumbrance is of the value of \$3,525.00.

III.

That the value of the entire property is the sum of \$7,425.00.

IV.

That said debtors may redeem said real property by paying into court said sum of \$7,425.00 on or before the 16th day of June, 1944, of which sum of \$3,900.00 shall be paid to Peter J. Wumkes and the sum of \$3,525.00 to said Frank J. Clark; provided, however, in case the order fixing value is appealed from debtors may redeem by paying into court, the said sum of \$7,425.00 within three months from and after the date said Order on Appeal becomes final, and provided further, that in the event of the period of three months from and after the date said Order on Appeal, becomes final, expires prior to the 16th day of June, 1944, debtors may have until the 16th day of June, 1944 to redeem said property by paying said sum of \$7,425.00 into this court.

Provided further, that debtors, since they have retained possession of the properties involved in this hearing, they [64] will be required to redeem both pieces of property if redemption is made.

Dated this 9th day of April, 1943.

FRED DUFFY

Conciliation Commissioner-
Referee.

[Endorsed]: Filed 4/9/43. Fred Duffy, Council Comm. [65]

[Title of District Court and Cause.]

FINDINGS OF FACT AND
CONCLUSIONS OF LAW

The Petition of the above-named debtors requesting a court reappraisal or hearing to determine the value of debtors' real property, coming on regularly for hearing on the 2nd day of February, 1943, and upon the request of Attorney J. C. Sexton was duly and regularly continued until February 16, 1943, and again upon the request of said J. C. Sexton, until March 3, 1943 and on March 3, 1943 at the hour of 10:00 A. M. thereof, before the Honorable Fred Duffy, Conciliation Commissioner of the above-entitled court in and for the County of San Bernardino, State of California, appeared said debtors personally and through their Attorney, H. R. Griffin, Esq., and Frank G. Clark, personally, and through his Attorney, Hempton S. Brenan, Esq., and Peter J. Wumkes, personally, and through his Attorney, Russell Goodwin, Esq.; that theretofore said Russell Goodwin had requested the court to allow him to withdraw as attorney for the said Peter J. Wumkes and said request had been denied,

which said request was renewed upon the opening of said hearing and said Russell Goodwin was permitted to withdraw as attorney with the consent and approval of the said Peter J. Wumkes; and no appearance being made either in person or by counsel for any other creditor scheduled in the above-entitled proceeding; and evidence both oral and documentary having been introduced and witnesses examined on behalf of the debtors and the appearing creditors, and said hearing [66] having been concluded and the cause having been argued by respective counsel and submitted, and the court being fully advised of the law in the premises, and after due consideration and deliberation thereon, makes its Findings of Fact as follows:

FINDINGS OF FACT

I.

The court finds that said debtors on or about the 25th day of July, 1940, filed their joint Petition in the above-entitled court, praying for relief as provided for in Section 75 of the Bankruptcy Act; that the filing of said Petition was approved by the above-entitled court and referred to Fred Duffy, Esq., Conciliation Commissioner, for further proceedings.

II.

That on or about the 25th day of October, 1940, said petitioners having been unable to secure acceptance or confirmation of their extension proposal, filed their amended Petition and were adjudicated bankrupts in accordance with the provisions of Sec-

tion 75(s) of the Bankruptcy Act, and that the above-entitled matter was referred to the Honorable Fred Duffy, Conciliation Commissioner, for further proceedings; and that thereafter and on the 16th day of June, 1941, said Honorable Fred Duffy, Conciliation Commissioner, made and entered an order setting aside the exempt properties to said debtors, giving said debtors possession of their properties for a period of three years, and setting the rental to be paid by said debtors.

III.

That the court further finds that scheduled by said debtors in their schedules was the following described real property owned by said debtors and situated in the County of San Bernardino, State of California, and more particularly described as follows, to-wit: [67]

Parcel 1: That property in the City of Redlands, County of San Bernardino, State of California, described as:

That portion of the Northwest quarter of the Southeast quarter of Section 21, Township 1 South, Range 3 West, San Bernardino Base & Meridian, described as: Beginning on the North line of said Northwest quarter of Southeast quarter 1008.87 feet East of the Northwest corner of said Southeast quarter: thence South along the East line of land of Israel Beal, 853.33 feet to a point 466.67 feet North of the South line of said Northwest quarter of the Southeast quarter; thence West 342 feet;

thence North and parallel with first course herein (853.33 feet; thence East 342 feet to beginning; Except that portion conveyed to the Lugo Water Company by Deed recorded in Book 438 of Deeds, at page 384 described as follows: Commencing at the Northeast corner of the Southeast $\frac{1}{4}$ of said section; thence West along the center line of Lugonia Avenue, 1716 feet for point of beginning; thence South 0 degrees 12' East 48 feet; thence West 55 feet; thence North 0 degrees 12' West 48 feet; thence East 55 feet to the place of beginning. Together with Four (4) shares of the capital stock of the Lugo Water Company, a corporation.

Parcel 2: That property in the City of Redlands, County of San Bernardino, State of California, described as:

All that portion of the Northwest quarter of the Southeast quarter of Section 21, Township 1 South, Range 3 West, San Bernardino Base & Meridian, in the City of Redlands, according to Government Survey, described as follows:

Beginning at a point on the East boundary line of the above described tract, which is 718.07 feet North from the Southeast corner thereof; thence running North along the East boundary line thereof 597.08 feet, more or less, to the Northeast corner of said tract; thence West along the North boundary line thereof, 311.13 feet, more or less, to a point which is 1,008.87 feet East from the Northwest corner of said tract; thence Southerly on a line parallel with

the East boundary of said tract 597.08 feet, more or less, to a point due West of the point of beginning; thence East 311.13 feet, more or less, to the beginning.

Together with 5 shares of the capital stock of the Lugonia Water Company, a corporation.

IV.

That the court finds that on or about the 23 day of December, 1942, the said petitioners filed their joint [68] Petition requesting reappraisal or hearing to determine value of debtors' real property; that pursuant to said Petition, a meeting of the creditors was called by the Honorable Fred Duffy, Conciliation Commissioner, to hear and determine the value of the debtors' real property.

V.

That the court further finds that the debtors' real property consists of two parcels of land as described in Paragraph III, hereof, and is entirely planted to Citrus, with the exception that there is located on the Clark property a small house approximately 24 feet x 36 feet, together with a garage 18 feet x 24 feet, and an unoccupied poultry building 18 feet x 48 feet, that the Clark property consists of approximately 4.2 acres, and the Wumkes' property adjoins said Clark's property and consists of approximately 5-7/8ths. acres.

VI.

The court further finds that the Clark property is planted to approximately 484 trees; that a num-

ber of said trees are Sweets, Blood Oranges and Australian Orange trees; that said Australian trees are large trees, as indicated by the exhibit on file. but are not productive and that there is less than a box of oranges on the tree, as shown in the exhibit; that the remainder of said grove consists of trees approximately 40 years old, but that 4 rows have been replanted, which trees are now approximately 10 years old and are not well developed. That as you travel from the front of said grove back towards the rear, there is to be noted increasing signs and indications that a stream or wash has traversed the rear portion of the grove, and this condition of the soil is reflected in the poor condition of the grove; that said grove is furnished with water, as represented by 5 shares of Bear Valley Company's stock, and that said [69] stock is hardly sufficient for the needs of that grove.

VII.

That the court further finds that the Wumkes' grove is planted to approximately 798 trees, being divided as follows: approximately 95 young Valencia trees, being 8 to 9 years old, 399 old Valencia trees and 304 Navel trees; that these trees are set too closely together, and this property, like the Clark property, has a gravelly soil, which soil becomes very noticeable as you travel towards the rear of the grove, and the condition of the trees reflect the poor condition of the soil. The Wumkes' grove is supplied with water, as represented with 4 shares of Lugo water.

VIII.

That the court finds that the house situated upon the Clark grove is in considerable need of repair.

IX.

The court further finds that the production of Citrus fruit is the highest and best use for said real property.

X.

The court further finds that the grove has had proper care and attention and the poor condition of the grove is directly attributable to the poor condition of the soil and the original selection of trees planted upon the property. The court further finds that the crop records are available, and commencing with the year 1935-1936, show as follows:

CLARK				WUMKES		
1935-1936	1,165	boxes	\$ 878.35			
1936-1937	1,042	"	930.26	872	boxes	\$1,578.15
1937-1938	843	"	259.94	991	"	387.39
1938-1939	1,136	"	304.02	1,958	"	764.72
1939-1940	1,001	"	558.18	1,983	"	1,261.16
						[70]
1940-1941	1,187	"	617.32	1,616	"	1,306.87
1941-1942	1,827	"	974.63	3,061	"	3,287.06

XI.

That there has been picked in this year, 416 boxes from the Clark grove and 263 boxes from the Wumkes' grove, and that it is estimated that there are approximately 70 boxes additional on the Clark grove and approximately 305 boxes on the Wumkes' grove, and the court further finds that the current crop in this locality is very light.

XII.

The court finds that the total value of the Wumkes' property is the sum of \$3,900.00.

XIII.

The court further finds that the value of the Clark property, including the grove, house, buildings and water stock, is of the total value of \$3,525.00.

XIV.

The court further finds that the total value of the Wumkes' property involved and the Clark property involved is the sum of \$7,425.00.

XV.

That the witnesses testifying in the above hearing and the value of the property, in their opinion, is set out as follows:

Charles Aubrey, a Licensed Real Estate Broker and Appraiser, and, until recently, District Manager for the Farm Security Administration for Riverside and San Bernardino Counties; a former Federal Land Bank Appraiser for Southern California; a Real Estate Broker, and who has appraised Citrus properties in San [71] Bernardino, Riverside, Ventura, Orange and Los Angeles, and other California counties, and an appraiser who has appeared before the Federal Court and this Court, testified that the Clark Grove consisted of 4.2 acres with 493 trees planted thereon, that many of said trees were Sweets, Bloods and Australians, and the remainder of said trees were from 40 to 50 years old, excepting 4 rows of trees averaging from 10 to 12 years of

age; that the Wumkes' grove consisted of 5-7/8ths acres planted to approximately 798 trees, being divided approximately as follows: 95 young Valencia trees from 8 to 9 years old, 399 old Valencia trees and 304 Navel trees. That the soil of both groves is sandy loam with gravelly spots, except approximately 4 acres which are very gravelly; that the trees are set too close together and by reason of the soil, it has not produced very satisfactorily, the crop records showing that the entire 10 acres is a marginal producer; that the land, however, is best adapted to Citrus production and that, in his opinion, the irrigation water supply is not quite adequate. Mr. Aubrey testified that in his opinion, and after going over the property very thoroughly, and the crop records, that the Wumkes' property was worth \$650.00 an acre, including water, or a total of \$3,900.00 That the Clark grove, including the house, garage, poultry building and water stock, is worth the sum of \$4,150.00. And he appraised the house in this grove at the sum of \$1,800.00, \$100.00 for the garage and \$250.00 for the poultry building.

W. H. Johnson, a Licensed Real Estate Broker and Appraiser in connection with the Redlands Yucaipa Land Company for 10 years, and who has lived in or about the City of Redlands for 32 years and has been engaged in the Realty and Appraisal business for many years, appraising both in this Court and the Superior Court of the State of California, testified that he had gone upon each of the properties and had carefully platted upon a diagram

all of the trees situate thereon, and that he had spent several [72] days in his examination of said properties and had taken numerous photographs of the same, which photographs were presented to the court and introduced in evidence, and that he had noted that the Clark grove had planted a number of Blood, Sweet and Australian trees, and that the condition of the soil towards the rear of both of said groves was very gravelly and indicated the former existence of a wash or stream, and that this condition of the soil had caused considerable difficulties in the raising and care of the Citrus trees and was reflected in the small size and poor appearance of the trees and the resulting loss of fruit; that he had examined the crop returns and was familiar with them, and that it appeared the Clark grove had been producing between 2 and 3 boxes of oranges to the tree, with the exception of the year 1941-1942 which was an exceptionally heavy bearing year for nearly all groves, when the Clark grove produced slightly more than 4 boxes to a tree and that the Wumkes' grove had been producing between one and a little more than 2 boxes to the tree, with the exception of the same year of 1941-1942 when it likewise produced a little more than 3 boxes to the tree. That he had examined and gone through the dwelling house located upon the Clark property and that he found that it was in considerable need of repair and that he had examined the garage and chicken house. Mr. Johnson then testified that, in his opinion, the Wumkes' property, including water stock, was worth \$3,600.00, and the Clark property,

including all buildings and water stock, \$3,525.00.

James Goodwin Powell testified that he was the owner of the property and that he had resided thereon for a number of years and testified that the house was approximately 26 x 32 feet with a small living room and dining room approximately 11x18 feet and 2 bedrooms, each approximately 11 x 12 feet, and a kitchen and a small bathroom; that the bathroom was approximately [73] 9 x 5 feet with a linoleum floor and a old style bathtub set up on legs rather than enclosed, and he further testified that, in his opinion, the value of both the Wumkes' property and Clark property, together with all buildings and water stock, was in the sum of \$7,500.00.

J. D. Inman testified that he has been a Broker in and about the City of Redlands since 1929, that the grove was in an underfed condition and that a portion thereof consisting of approximately 1 acre was gravel, that, in his opinion, the Clark land, water and flumes, was worth \$2,200.00, that the trees on the Clark property were worth \$1,200.00, and the house thereon was worth \$2,100.00, the garage \$350.00 and the chicken coop \$200.00, thus making a total of \$6,050.00. That, in his opinion, the property had increased in value from Ten (10%) to Twenty (20%) Per Cent during the last year.

James Wheat testified that he had been a former Postmaster of the City of Redlands and was now engaged in the Real Estate business; that, in his opinion, the Clark property, buildings and water stock, were worth \$5,500.00.

CONCLUSIONS OF LAW

I.

That the value of Peter J. Wumkes' portion of the property on which the said Peter J. Wumkes has an encumbrance is of the value of \$3,900.00.

II.

That the value of the property on which Frank G. Clark holds an encumbrance is of the value of \$3,525.00.

III.

That the value of the entire property is the sum of \$7,425.00. [74]

IV.

That said debtors may redeem said real property by paying into court said sum of \$7,425.00 on or before the 16th day of June, 1944, of which sum of \$3,900.00 shall be paid to Peter J. Wumkes and the sum of \$3,525.00 to said Frank J. Clark; provided, however, in case the order fixing value is appealed from debtors may redeem by paying into court, the said sum of \$7425.00 within three months from and after the date said Order on Appeal becomes final, and provided further, that in the event of the period of three months from and after the date said Order on Appeal, becomes final, expires prior to the 16th day of June, 1944, debtors may have until the 16th day of June, 1944 to redeem said property by paying said sum of \$7,425.00 into this court.

Provided further, that debtors, since they have retained possession of the properties involved in

this hearing, they will be required to redeem both pieces of property if redemption is made.

Dated this 9th day of April, 1943.

FRED DUFFY

Conciliation Commissioner-
Referee.

[Endorsed]: Filed 4/2/43. Fred Duffy, Council Comm. [75]

[Title of District Court and Cause.]

DECISION

This matter coming on to be heard on petition of debtors to determine value of real property.

Debtors appearing personally and by H. R. Griffin, their attorney. Creditors, appearing were Frank G. Clark, holder of Trust Deed on one piece of property, personally and by his attorney, Henton S. Brenan, and Peter J. Wumkes, holder of Trust Deed on one piece of property, and his attorney, Russell Goodwin. That said attorney asked the court to allow him to withdraw as attorney for said Peter J. Wumkes, said request was denied, but before the Hearing said Russell Goodwin did withdraw as attorney with the consent and approval of said Peter J. Wumkes.

Above entitled matter was set for Hearing for the 2nd., day of February, 1943, and at the request of attorneys for creditors, matter was continued to February, 16th., 1943. And on request of creditors

attorneys, was again continued to March, 3rd., 1943., at which time matter was heard.

At said Hearing the Court, received evidence both oral and documentary.

After considering all the evidence, I have reached the conclusion that the value of debtors real property is as follows:

That the value of the Peter J. Wumkes portion or the property on which said Peter J. Wumkes, has encumbrance is of the value of \$3900.00.

That the value of the property on which Frank G. Clark, holds encumbrance is of the value of \$3525.00.

That the value of the entire property is the sum of \$7425.00. Debtors may redeem said real property by paying into Court, the [76] said sum of \$7425.00, on or before the 16th day of June, 1944. Of which sum \$3900.00, shall be paid to Peter J. Wumkes, and the sum of \$3525.00, to said Frank G. Clark.

Provided However, in case Order fixing value is appealed from debtors may redeem by paying into Court, the said sum of \$7425.00, within three months from and after the date said Order on Appeal, becomes final.

Provided Further, that in the event the period of three months from and after the date said Order on Appeal, becomes final, expires prior to the 16th day of June, 1944, debtors may have until the 16th day of June, 1944, to redeem said property by paying said sum of \$7425.00 into this Court.

It is my view, that debtors, since they have re-

tained possession of properties involved in this Hearing, they will be required to redeem both pieces of said property if redemption is made.

Attorney for petitioning debtors, will prepare appropriate Findings, Conclusions and Order.

Dated San Bernardino, California, this 25th day of March, 1943.

FRED DUFFY

Conciliation Commissioner-
Referee [77]

= 0.1e

✓	N	N	N	N	N	N	N	N	yard	
✓	S	S	S	S	S	S	S	S		S
✓	S	S	S	S	S	S	S	S	House	S
✓	S	S	S	S	S	S	S	S		S
✓	S	S	S	A	S	S	S	S		S
✓	S	S	S		S	S	S	S		S

tunted worthless trees. Should come out
 11 trees - 20 of them.
 oranges.
 95.

EX 4
 Identification
 Admitted





REDLANDS HEIGHTS GROVES, INC.

Grower—J G Powell
Address—Redlands
Redlands, Calif., Aug 12 32
Pool No.—One
Variety—Valencia's
From—Beginning of Season to June 30

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
June 3	18356	60	✓		80	@ \$1.8440	" "		
				1	126	@ 2.0296	" "	2 03	
				3	150	@ 1.9022	" "	5 70	
				4	176	@ 1.6550	" "	6 62	
				6	200	@ 1.3161	" "	7 89	
				8	216	@ 1.0332	" "	8 26	
				5	252	@ .9185	" "	4 59	
				4	288	@ .8234	" "	3 29	
				2	344	@ .7924	" "	1 44	
					392	@ .6356	" "		
				Jumbles					
				—					
				33	Total				39 82

SECOND GRADE

		Per Box			
		@ \$	" "		
80					
100		@ .8012	" "		
126		@ .9567	" "		
150		@ 1.0127	" "		
176		@ .9685	" "		
200		@ .8141	" "		
216		@ .6371	" "	63	
252		@ .4279	" "	42	
288		@ .3237	" "	32	
344		@ .3121	" "		
392		@ .3059	" "		
Jumbles					
—					
3	Total				1 37

Total Packed Boxes

73# Standards Sold Loose @ \$ 4040 Cwt. 29
Culls Sold Loose
80# Culls Processed
Culls Worthless

Gross Returns

Statement of Account

Gross Returns This Pool

Credit Balance Fdw.

Debit Balance Fdw.

Picking

Hauling

Building and Supply Co. Revolving Stock

@ 9c per packed box

Growers Supplies Purchased

Cash Advances

Credit to Account

Balance Due

Check to Balance

Total

34 04

41 48

In Addition there will be a Cash Find estimated at \$ 15 per packed box
Your pool average is \$1 15 per packed box

Total Average \$1 30 per packed box

[79]



[Pencilled]: 1932

Grower—J G Powell

Address—Redlands

Redlands, Calif., May 17 32

Pool No.—Three

From—Jan 16 to Mar 15

Variety—Naels

Date	Record of Fruit Received			Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes	✓				FIRST GRADE	Per Box		
Feb 23 24	17244	65			11	80	@	\$.7473	8 22	
	17261	72			36	100	@	.8034	28 92	
	17270	72			68	126	@	.8381	56 99	
	17272	72			73	150	@	1.0044	73 32	
	17272	72			53	176	@	1.2006	63 63	
	17274	72			38	200	@	1.5237	57 90	
Mar 17	17275	64			31	216	@	1.4045	43 54	
	17564	72			18	252	@	1.4191	25 54	
	17568	72			14	288	@	1.3437	18 81	
	17574	72			4	344	@	1.1955	4 78	
	17577	72				392	@	1.1158		
						Jumbles				
18	17579	69			346	Total				381 65
	17580	72			4	80	@	\$.2581	1 03	
					7	100	@	.2742	1 92	
		918			19	126	@	.3951	7 50	
					20	150	@	.4885	9 77	
					22	176	@	.6134	13 49	
					22	200	@	.7489	16 47	
					19	216	@	.8706	16 54	
					10	252	@	.8874	8 87	
					7	288	@	.8905	6 23	
					4	344	@	.7991	3 19	
					1	392	@	.6691	67	
						Jumbles				
					135	Total				85 68
					481	Total Packed Boxes				28 84
					6677 #	Standard Sold Loose	@	\$.4320 Cwt.		
					1420 #	Culls Sold Loose				
					840 #	Culls Processed				
						Culls Worthless				496 17
						Gross Returns				
								Statement of Account	Debit	Credit
						Gross Returns This Pool				496 17
						Credit Balance Fdw.				
						Debit Balance Fdw.				
						Picking				
						Hauling			55 07	
						Building and Supply Co. Revolving Stock				
						@ 9c per packed box			43 29	
						Growers Supplies Purchased			75 00	
						Tankage				
						Cash Advances				
						Credit to Account				
						Balance Due			322 81	
						Cheek to Balance				
						Total			496 17	496 17

Note: Fruit Inclined To Be Large, and
Coarse, Somewhat Thrip Marked and
Stem End Spotted.

[In pencil]:

3 22
34 04
64 55
3 61
6 43

111.85

Debitors Ex 17

In Addition there will be a Cash Refund estimated at \$ 15 per packed box

Your pool average is \$1 03 per packed box

Total Average \$1 18 per packed box

[80]



REDLANDS HEIGHTS GROVES, INC.

Grower—J G Powell
Address—Redlands

Redlands, Calif.,—June 28 32

Pool No.—Season

Variety—Seeds

From..... To.....

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box	
Feb 23	17228	64			80			
	17231	44			100	@ \$.7803	" "	
	17243	44		2	126	@ .8802	" "	1 76
				4	176	@ .9411	" "	3 76
				8	200	@ 1.0229	" "	8 18
		152		13	216	@ 1.0570	" "	13 74
				16	252	@ 1.0553	" "	16 88
				21	288	@ 1.0605	" "	22 27
				11	344	@ .7514	" "	8 26
				7	392	@ .7149	" "	5 00
					Jumbles			
				82	Total			79 85

SECOND GRADE	
	Per Box
80	@ \$.2145
100	@ .2145
126	" "
150	@ .2828
176	@ .4006
200	@ .4652
1	@ .5104
2	@ .5511
288	@ .4828
344	@ .2882
392	@ .2064
Jumbles	" "
8	Total
90	Total Packed Boxes

Standards Sold Loose @ \$.4000 Cwt.
Culls Sold Loose
Culls Processed
Culls Worthless

Gross Returns 3 63

Statement of Account

Gross Returns This Pool
New Returns on Bloods
Credit Balance Fdw.
Debit Balance Fdw.
Picking
Hauling
Building and Supply Co. Revolving Stock
@ 9c per packed box
Growers Supplies Purchased
Cash Advances
Credit to Account
Balance Due
Check to Balance

Debit

Credit
83 48
3 61

14 44

8 10

64 55

Total

87 09

In Addition there will be a Cash Refund estimated at \$ 93 per packed box
Your pool average is \$ 15 per packed box

Total Average \$1 08 per packed box

[81]



Grower—J G Powell
Address—Redlands

Redlands, Calif.,—June 28 32
Pool No.—Season
From..... To..... Variety—Bloods

Date	Record of Fruit Received			Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes	✓				FIRST GRADE	Per Box		
Feb 23	17242	12								
					1	252	@ \$1.3600	" "	1 36	
					2	288	@ 1.2873	" "	2 57	
					1	344	@ .6285	" "	63	
					1	392	@ .5872	" "	58	
						Jumbles				
					5	Total				5 14
							SECOND GRADE	Per Box		
						80				
						100				
						126				
						150				
						176				
						200				
						216				

Notes—Sizes Quite Small

5	Total Packed Boxes	
	Standards Sold Loose	
	Culls Sold Loose	
170 #	Culls Processed	
	Culls Worthless	
	Gross Returns	5 14

Statement of Account

Gross Returns	This Pool	Debit	Credit
Credit Balance Fdw.			5 14
Debit Balance Fdw.			
Picking			
Hauling		1 08	
Building and Supply Co. Revolving Stock			
@ 9c per packed box			45
Growers Supplies Purchased			
Cash Advances			
Credit to Account			
Balance Due		3 61	
Check to Balance			
	Total	5 14	5 14

In Addition there will be a Cash Refund estimated at \$ 1 03 per packed box
\$ 15 per packed box

Total Average \$1 18 per packed box



Grower—J G Powell
Address—Redlands

Redlands, Calif.—Aug 12 '32
Pool No.—Two
Variety—Local Grapefruit
From—June 1 to June 30

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
June 9	18357	13							
				1	64	@ \$1.1789	" "	1 18	
				2	80	@ 1.1110	" "	2 22	
				2	100	@ .8936	" "	1 78	
					126				
					150				
					176				
					200				
				5	Total				5 18

SECOND GRADE

	Per Box	
36		
48		
64		
1 80	@ \$1.0054	" "
1 100	@ .7318	" "
1 126	@ .7318	" "
150		1 00
176		73
200		73
3 Total		
8 Total Packed Boxes		2 46

19# Standards Sold Loose @ \$.4750 Cwt.
Culls Sold Loose
Culls Processed
Culls Worthless

(Gross Returns

7 73

Statement of Account

Gross Returns This Pool

Debit

Credit

Credit Balance Fdw.

Debit Balance Fdw.

Picking

Hauling

Building and Supply Co. Revolving Stock

@ 9c per packed box

Growers Supplies Purchased

Cash Advances

Credit to Account

Balance Due

Check to Balance

58

72

6 43

Total

7 73

7 73

In Addition there will be a Cash Refund estimated at \$ 96 per packed box
at \$ 15 per packed box

Total Average \$1 11 per packed box

[83]



Redlands, Calif.—May 10 33
 Pool No.—Three
 From Jan 16 to Mar 15

Grower—J G Powell
 Address—Redlands

Variety—Navels

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
Jan 20	19960	8		2	80	@ \$1.0641		2 13	
Mar 1	20555	72		18	100	@ 1.1075		19 93	
	20556	72		58	126	@ .8113		47 05	
	20557	65		70	150	@ .6905		48 33	
2	20565	72		67	176	@ .6854		45 92	
	20566	72		32	200	@ .5672		18 15	
	20570	72		29	216	@ .5519		16 00	
	20572	72		16	252	@ .5493		8 79	
	20574	72		4	288	@ .5251		2 10	
3	20579	22		1	344	@ .5227		52	
	20584	72			392	@ .5287			
	20585	72			Jumbles				
	20587	72		297	Total				208 92
	20589	72				SECOND GRADE			
	20593	72			80	@ \$.3009	Per Box		
	20597	69		5	100	@ .3490		1 74	
				24	126	@ .3485		8 36	
				43	150	@ .3371		14 49	
				48	176	@ .3372		16 18	
				48	200	@ .3389		16 26	
				40	216	@ .3386		13 54	
				27	252	@ .3321		8 96	
				16	288	@ .3260		5 21	
				6	344	@ .3070		1 84	
				2	392	@ .2350		47	
					Jumbles				
				259	Total				87 05
				556	Total Packed Boxes				
				6381 #	Standards Sold Loose @ \$.3339 Cwt.			21 30	
				843 #	Culls Sold Loose @ \$.2638 Cwt.			2 22	
				852 #	Culls Processed				
				120 #	Culls Worthless				
					Gross Returns			319 49	

Note: Fruit Somewhat Coarse
 [In pencil]:

262
 + 81
 9 09

275 90 Debtor Ex 16

Statement of Account

Gross Returns This Pool

Credit Balance Fdw.
 Debit Balance Fdw.
 Picking
 Hauling
 Building and Supply Co. Revolving Stock
 @ 9c per packed box
 Growers Supplies Purchased
 Fertilizer
 Smudge Oil
 G R Fellows Order

Cash Advances

Credit to Account
 Balance Due
 Check to Balance

Total

Your pool average is \$ 57 per packed box
 In Addition there will be a Cash Refund estimated at \$ 20 per packed box

Total Average \$ 77 per packed box



Grower—J G Powell
Address—Redlands

Redlands, Calif.—Oct 16 33
Pool No.—Two
From July 1 to Aug. 31
Variety—Valencias

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
July 26	21736	61			80				
					100				
				2	130	@ \$1.3319	" "	2 66	
				3	176	@ 1.3085	" "	3 92	
				5	200	@ 1.1847	" "	5 92	
				6	216	@ 1.0180	" "	6 11	
				7	252	@ .9542	" "	6 68	
				5	288	@ .7672	" "	3 83	
				2	344	@ .6742	" "	1 35	
					392	@	" "		
					Jumbles				
				30	Total				30 47
						SECOND GRADE	Per Box		
					80				
					100				
					126				
					150				
				1	176	@ \$.5881	" "	59	
				2	200	@ .5393	" "	1 08	
				2	216	@ .6219	" "	1 24	
				2	252	@ .4543	" "	91	
				2	288	@ .4492	" "	90	
				1	344	@ .2957	" "	29	
					392	@	" "		
					Jumbles				
				10	Total				5 01
				40	Total Packed Boxes				
	110#				Standards Sold Loose @ \$ 5238 Cwt.				57
	40#				Culls Sold Loose				
					Culls Processed				
					Culls Worthless				
					Gross Returns				36 05
Statement of Account									
	Gross Returns This Pool								
	Credit Balance Fdw.								
	Debit Balance Fdw.								
	Picking								
	Hauling								
	Building and Supply Co. Revolving Stock								
	@ 3c per packed box								
	Growers Supplies Purchased								
	Cash Advances								
	Credit to Account								
	Balance Due								
	Check to Balance								
								92 30	
								3 35	
								3 60	
									63 20
									99 25
									36 05

Total

In Addition there will be a Cash Refund estimated at \$ 90 per packed box
\$ 20 per packed box

Total Average \$1 10 per packed box

[85]



Grower—J G Powell
Address—Redlands

Redlands, Calif.—Oct 5 33
Pool No.—Two
From June 1 to June 30

Variety—Local Grapefruit

Record of Fruit Received

Date	Ticket No.	Field Boxes	Weight	Boxes	Size	FIRST GRADE	Credits	Amount	Totals
June 8	21495	15	✓						
							Per Box		
				1	36	@ \$1,4900	" "	1 49	
				1	64	@	" "	1 51	
				1	80	@ 1,5100	" "	1 51	
				1	100	@ 1,5100	" "	1 51	
				1	126	@	" "	1 35	
				1	150	@ 1,3500	" "		
					176				
					200				

4 Total 5 86

SECOND GRADE

Per Box

	36								
	48								
	64								
1	80	@ \$.9845	" "					98	
1	100	@ .9698	" "					97	
1	126	@ .9508	" "					95	
1	150	@ .7400	" "					74	
	176								
	200								

4 Total 3 64

Total Packed Boxes

62# Standards Sold Loose @ \$.7561 Cwt. 47

Culls Sold Loose

Culls Processed

Culls Worthless

10#

Gross Returns

9 97

Statement of Account

Gross Returns This Pool

Credit Balance Fdw.

Debit Balance Fdw.

Picking

Hauling

Building and Supply Co. Revolving Stock

@ 9c per packed box

Growers Supplies Purchased

Cash Advances

Credit to Account

Balance Due

Check to Balance

100 88
67

72

Total

102 27

In Addition there will be a Cash Refund estimated at \$ per packed box
Your pool average is \$ per packed box

Total Average \$ per packed box

[86]



Grower—J G Powell
Address—Redlands

Redlands, Calif.—Jun 20 33
Pool No.—Season
From..... To..... Variety—Bloods

Record of Fruit Received
Ticket No. Field Boxes ✓

Mar 8 20626 16

Date	Ticket No.	Field Boxes	Weight	Boxes	Size	FIRST GRADE	Credits	Amount	Totals
						Per Box			
				80					
				100					
				126					
				150					
				176					
				200					
				216					
				252				1 17	
				288				1 82	
				344				3 25	
				392					
				Jumbles					
				7					6 24

Note: Fruit Quite Small Sized

@ \$1.1753 " " 1 17
@ .9126 " " 1 82
@ .8122 " " 3 25

SECOND GRADE
Per Box

7 Total

80
100
126
150
176
200
216
252
288
344
392

Jumbles

Total

7 Total Packed Boxes

Standards Sold Loose
Culls Sold Loose
Culls Processed
Culls Worthless

270#

Gross Returns

6 24

Statement of Account

Gross Returns This Pool

Credit Balance Fdw.

Debit Balance Fdw.

Picking

Hauling

Building and Supply Co. Revolving Stock

@ 9c per packed box

Growers Supplies Purchased

Cash Advances

Credit to Account

Balance Due

Check to Balance

Total

6 24

6 24

In Addition there will be a Cash Refund estimated at \$ 20 per packed box
Your pool average is \$ 89 per packed box

Total Average \$1 09 per packed box

[87]



REDLANDS HEIGHTS GROVES, INC.

Grower—J G Powell
Address—Redlands

Redlands, Calif.—Jun 20 33
Pool No.—Season

Variety—Seeds
From..... To.....

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
Mar 31	21002	73			80				
				1	126	@ \$.4891	" "	49	
				2	176	@ .4945	" "	99	
				3	200	@ .4962	" "	1 49	
				4	216	@ .4963	" "	1 98	
				6	252	@ .4902	" "	2 94	
				9	288	@ .4583	" "	4 12	
				6	344	@ .3857	" "	2 31	
				392					
				Jumbles					
				31	Total				14 32

SECOND GRADE
Per Box

	80								
	100								
	126								
	150								
	176								
	200								
	216								
	252			1	@ \$.4367	" "		43	
	288			2	@ .4051	" "		81	
	344			1	@ .3285	" "		33	
	392								
	Jumbles								
	4	Total							1 57

Total Packed Boxes

Standards Sold Loose
Culls Sold Loose
Culls Processed
Culls Worthless

Gross Returns

Statement of Account

Gross Returns This Pool

Credit Balance Fdw.
Debit Balance Fdw.
Picking
Hauling
Building and Supply Co. Revolving Stock
@ 3c per packed box
Growers Supplies Purchased

Cash Advances

Credit to Account
Balance Due
Check to Balance

Debit
15 89

Credit
15 89

Total

15 89

In Addition there will be a Cash Refund estimated at \$ 45 per packed box
@ 20 per packed box

Total Average \$ 65 per packed box

[85]

E. Fuller, President

Geo. T. Musson, Secretary

Redlands, California 11/17/34

REDLANDS HEIGHTS GROVES

Powell Oranges Sunkist Lemons Phone, Main 1324

OFF BLOOM NAVEL ORANGES

October 22 received 21 boxes.....1047# Door weight

Less Cullage & Shrinkage 79#

Sold Loose 968# @ \$2.3304 Cwt. \$22.56

Picking\$ 4.20

\$ 4.20 \$22.56

Credit to Account..... 18.36

\$22.56 \$22.56

[In pencil] :

Debtor Ex 15

43.96

11.32

55.75

3.41

5.05

119.49

[89]

nal Statement

Grower—
Address...

Record of
Date Ticket

ar 1

92900

2

ote: 1



Grower—J G Powell

Redlands, Calif.—Jun 15 34

Pool No.—Two

Variety—Navels

From Jan 16 to End of Season

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
Mar 1	23280	42		1	80	@ \$.6885		69	
	23281	64		10	100	@ .5403		5 40	
	23292	70		17	126	@ .6158		10 47	
	23301	25		12	150	@ .7214		8 66	
2	23309	72		11	176	@ .8965		9 86	
	23313	65		5	200	@ 1.0717		5 36	
				4	216	@ 1.0534		4 21	
				2	252	@ 1.2103		2 42	
				1	288	@ 1.2539		1 25	
	338			344		@ 1.2717			
				392		@ 1.2071			
				Jumbles					
				63	Total				48 32

Note: Fruit Inclined to be Large & Coarse

SECOND GRADE			
		Per Box	
80	@ \$1.3136		11 48
100	@ .3496		7 73
30	@ .3826		8 83
16	@ .4831		6 58
13	@ .6796		1 91
9	@ .7310		1 01
5	@ .8561		
2	@ .9559		
2	@ 1.0102		
1	@ 1.0322		
344	@ 1.0322		
392	@ 1.0322		
Jumbles			
76	Total		41 82
139	Total Packed Boxes		37 47

5280# Standards Sold Loose @ \$.7096 Cwt.

Culls Sold Loose

Culls Processed

Culls Worthless

Gross Returns

Statement of Account

Gross Returns This Pool

Credit Balance Fdw.

Debit Balance Fdw.

Picking

Hauling

Building and Supply Co. Revolving Stock

@ 9c per packed box

Growers Supplies Purchased

Fertilizer

Cash Advances

Credit to Account

Balance Due

Check to Balance

127 61

Debit

127 61

127 61

In Addition there will be a Cash Refund estimated at \$ 20 per packed box
 Your pool average is \$.92 per packed box

Total Average \$1.19 per packed box

[90]



Grower—J G Powell
Address.....

Redlands, Calif.—Oct 27 1934
Pool No.—One
From Beginning of Season to End of Season
Variety—Valencias

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
July 18	520	13	✓		80	@ \$1.8122	“ “		
					100	1.9638			
					126	1.9891			
					150	2.0513			
					176	2.0543		2 05	
				1	200	2.0490		2 05	
				1	216	2.0305		2 03	
				1	252	1.9713		1 97	
				1	288	1.5068		1 51	
				1	344	1.3447			
					392				
					Jumbles				
				5	Total				9 61

SECOND GRADE		Per Box
	@ \$	
80	.8915	
100	1.2149	
126	1.3666	
150	1.6324	
176	1.6257	
200	1.5686	
216	1.4391	1 44
252	1.2833	1 28
288	1.1865	
344	1.0280	
392		
Jumbles		
2	Total	2 72
7	Total Packed Boxes	

55# Standards Sold Loose @ \$1.0660 Cwt. 59

40# Culls Sold Loose
Culls Processed
Culls Worthless

Gross Returns

Statement of Account

Gross Returns This Pool		12 92
Credit Balance Fdw.		
Debit Balance Fdw.		
Picking		
Hauling	97	
Building and Supply Co. Revolving Stock		
@ 9c per packed box	63	
Growers Supplies Purchased		
Cash Advances		
Credit to Account		
Balance Due		11 32
Check to Balance		

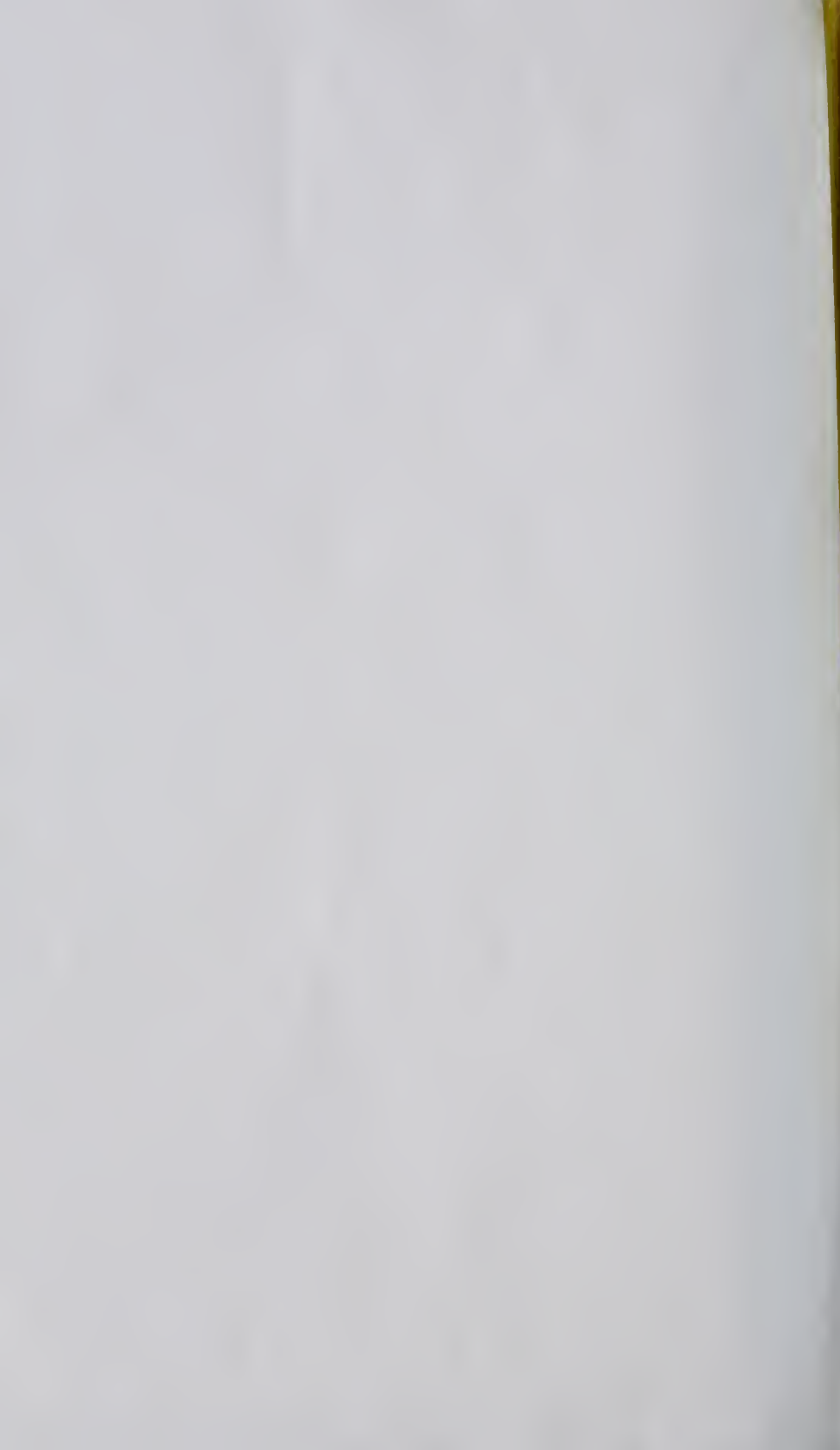
Credit 12 92

In Addition there will be a Cash Refund estimated at \$ 20 per packed box

Your pool average is \$1 85 per packed box

Total Average \$2 05 per packed box

[91]

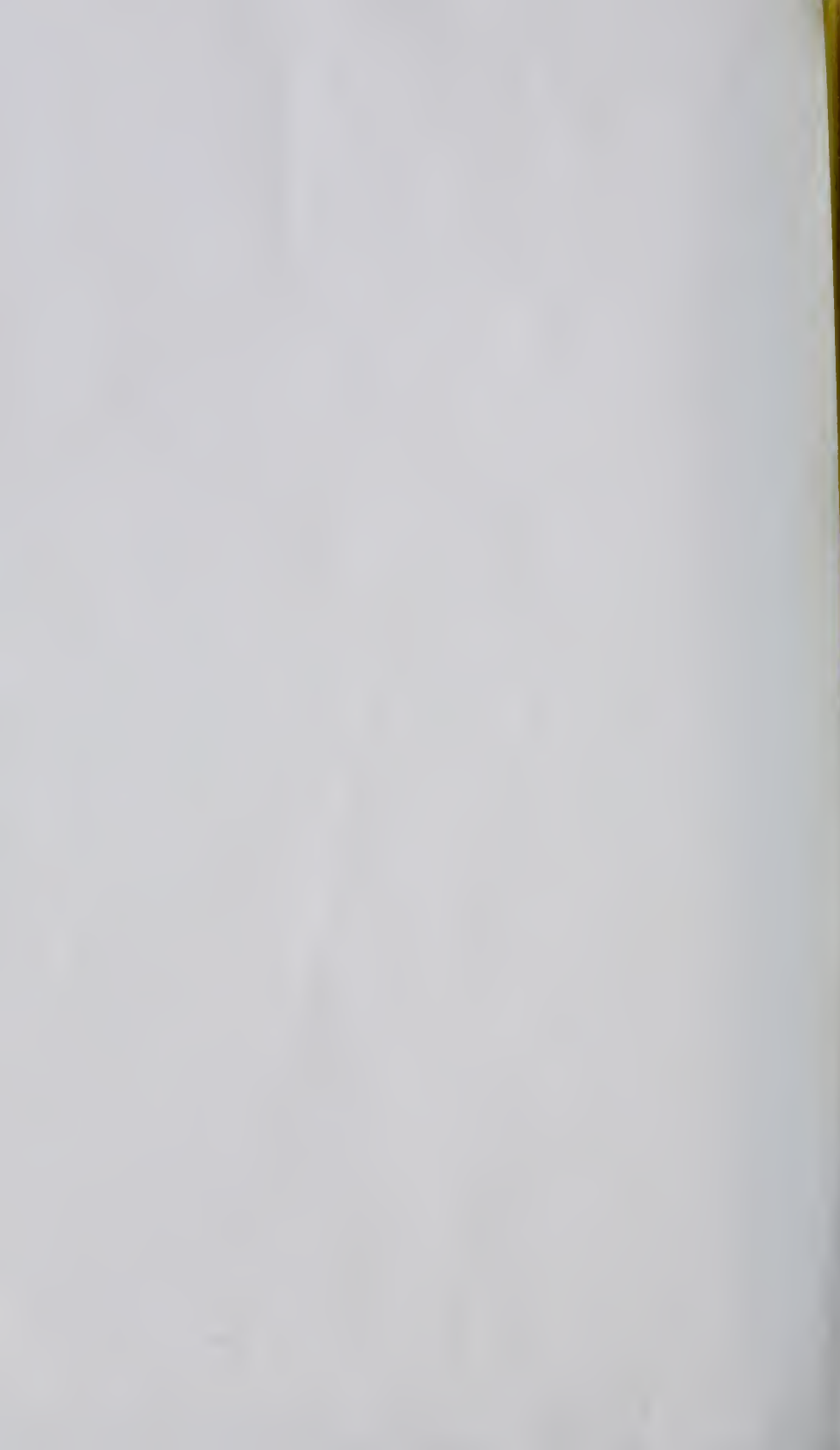


Grower—J G Powell
 Address.....
 Redlands, Calif.—Jun 27 34
 Pool No.—Season
 From..... to..... Variety—Seeds

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
Mar 20	23499	72		1	176	@ \$.7618	" "	76	
	23509	65		4	200	@ .7829	" "	3 13	
	23510	10		9	216	@ .8875	" "	7 99	
				12	252	@ 1.0814	" "	12 98	
				13	288	@ 1.1104	" "	14 44	
			11	344	@ 1.0768	" "	11 84		
			5	392	@ .9946	" "	4 97		
				Jumbles					
				55	Total				56 11
				SECOND GRADE					
							Per Box		
				1	150	@ \$.2652	" "	27	
				2	176	@ .4675	" "	94	
				4	200	@ .6418	" "	2 57	
				5	216	@ .7667	" "	3 83	
				5	252	@ .7751	" "	3 88	
				5	288	@ .7911	" "	3 96	
				3	344	@ .7692	" "	2 31	
				2	392	@ .5120	" "	1 02	
				Jumbles					

In Addition there will be a Cash Refund estimated at \$ 20 per packed box
 Your pool average is \$ 91 per packed box

Total Average \$1 11 per packed box



Grower—J G Powell
 Address.....
 Redlands, Calif.—Jul 2 34
 Pool No.—Season
 From..... To..... Variety—Bloods

Date	Record of Fruit Received		Weight	Boxes	Size	Credits		Amount	Totals
	Ticket No.	Field Boxes				FIRST GRADE	Per Box		
Mar 20	23511	11							
				1	80	@ \$1.1440	“ “	1 14	
				1	100	@ 1.1086	“ “	1 11	
				1	126	@ 1.0964	“ “	1 03	
					150				
					176				
					200				
					216				
					252				
				1	288	@	“ “		
				1	344	@	“ “		
				1	392	@	“ “		
					Jumbles				
				1	420	@	.9346 “ “	93	
				4	Total				4 21
						SECOND GRADE			
							Per Box		
					80				
					100				
					126				
					150				
					176				
					200				
					216				
					252				
					288				
					344				
					392				
					Jumbles				
				1	420	@ \$.5321	“ “	53	
				1	Total				
				5	Total Packed Boxes				53
					Standards Sold Loose				
					Culls Sold Loose				
				140#	Culls Processed				
					Culls Worthless				
					Gross Returns				4 74

Statement of Account

Gross Returns This Pool		Debit	Credit
Credit Balance Fdw.			
Debit Balance Fdw.			
Picking			
Hauling			
Building and Supply Co. Revolving Stock			
@ 9c per packed box			
Growers Supplies Purchased			
Cash Advances			
Credit to Account			
Balance Due			
Check to Balance			
Total		4 74	4 74

In Addition there will be a Cash Refund estimated at \$ per packed box
 Your pool average is \$ per packed box
 Total Average \$ per packed box



Grower—J G Powell
Address.....

Redlands, Calif.—Oct 12 34
Pool No.—One
From—Beginning of Season To End of Season
Variety—Grapefruit

Record of Fruit Received

Date July 18
Ticket No. 521
Field Boxes 7 ✓

Boxes	Size	Credits		Amount	Totals
		FIRST GRADE	Per Box		
1	36				
1	48				
1	64	@ \$1.4542	" "	1 45	
1	80	@ 1.7837	" "	1 78	
1	100	@ 1.5775	" "	1 58	
	126				
	150				
	176				
	200				

3 Total

4 81

SECOND GRADE
Per Box

36					
48					
64					
80					
100					
1	126	@ \$.6945	" "	69	
	150				
	176				
	200				

1 Total

69

4 Total Packed Boxes

33

66# Standards Sold Loose @ \$.5002 Cwt.
Culls Sold Loose
Culls Processed
Culls Worthless

Gross Returns

5 83

Statement of Account

Gross Returns This Pool

Credit Balance Fdw.

Debit Balance Fdw.

Picking

Hauling

Building and Supply Co. Revolving Stock

@ 9c per packed box

Growers Supplies Purchased

Cash Advances

Credit to Account

Balance Due

Check to Balance

Debit

Credit

5 83

42

36

5 05

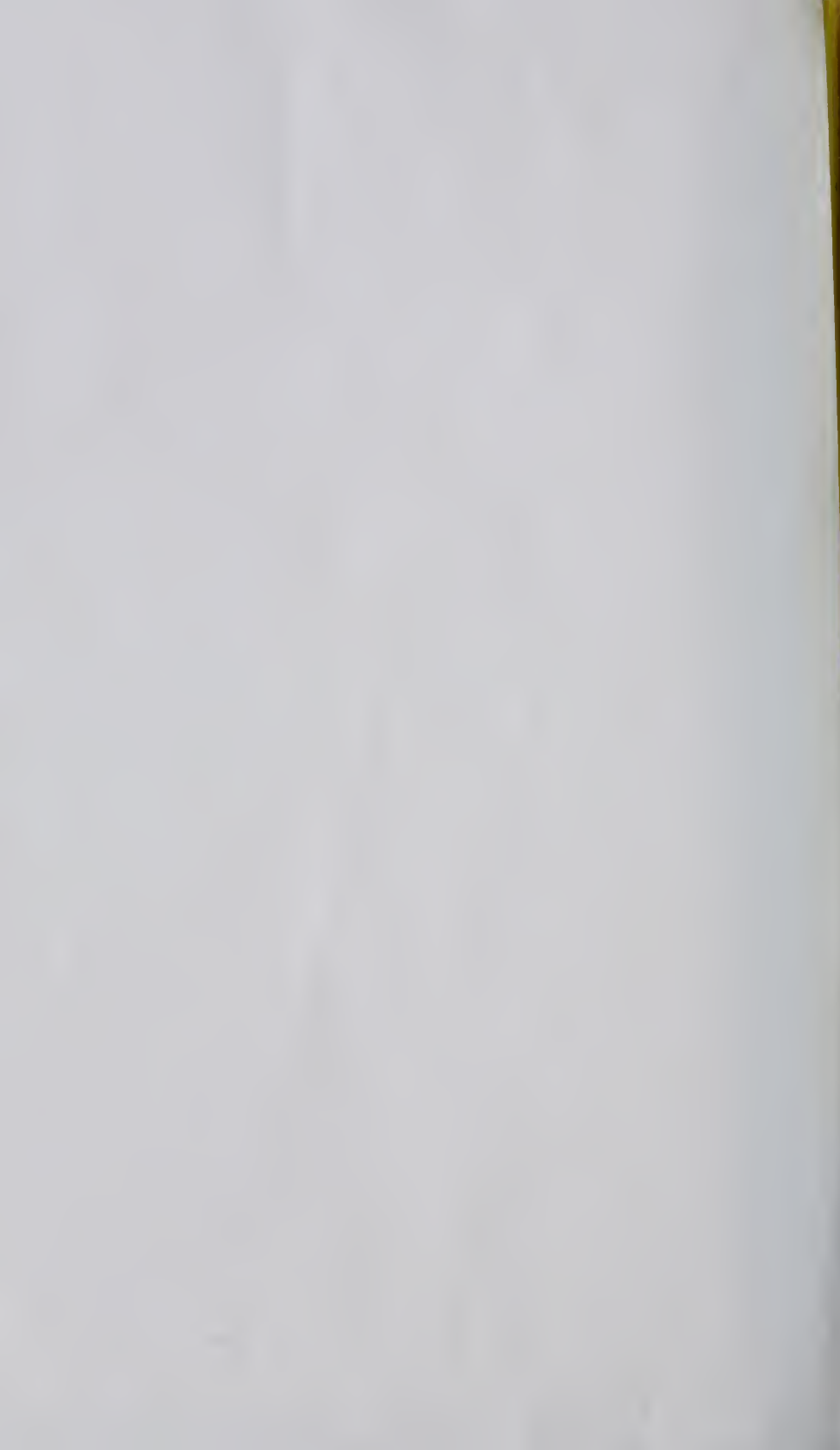
5 83

Total

In Addition there will be a Cash Refund estimated at \$ 20 per packed box
Your pool average is \$1 46 per packed box

Total Average \$1 66 per packed box

[94]



REDLANDS HEIGHTS GROVES

Packers and Shippers Sunkist Oranges and Grapefruit

Bedlands, California

1/29/43

[Written across face of page]: Debtors Ex 1 for Identification Admitted

Schedule of Fruit Harvested by J. G. Powell From Home,
or Clark Grove, and Wumkes Grove

	Home or Clark Grove			Wumkes grove		
1935-36	Navels	906 boxes	\$629.11			
	Odds	201 "	129.50			
	Vals	58 "	60.19			
	refund		62.55			
	Total	1165 "	\$878.35			
1936-37	Navels	880 bxs	\$707.39			
	Odds	106 "	120.92			
	Vals.	56 "	62.68			
	Refund		39.27			
	Total	1042 "	\$930.26			
1937-38	Navels	702 bxs	\$187.45			
	Odds	141 "	27.12			
	Refund		45.37			
	Total	843 "	\$259.94			
1938-39	Navels	893 bxs	\$230.75			
	Odds	184 "	13.97			
	Vals.	59 "	24.79			
	Refund		34.51			
	Total	1136 "	\$304.02			
1939-40	Navels	747 bxs	\$344.07			
	Odds	225 "	151.18			
	Vals	29 "	14.68			
	Refund		48.25			
	Total	1001 "	\$558.18			
1940-41	Navels	1012 bxs	\$496.53			
	Odds	145 "	58.22			
	Vals	30 "	25.55			
	Refund		37.02			
	Total	1187 "	\$617.32			
1941-42	Navels	1583 bxs	\$705.67			
	Odds	177 "	72.76			
	Vals.	67 "	95.09			
	Refund		101.11			
	Total	1827 "	\$974.63			
2-10-43	Navels	416 bxs				

Estimated now on trees:

	10 Bxs	60 Bxs
Vals.		
Odds		

[101]

[Title of District Court and Cause.]

NOTICE OF HEARING

Notice Is Hereby Given that Petition for reappraisal or Hearing to determine value of real property of above named debtors, has been filed in this court.

Your Are Further Notified, that Hearing on said Petition, will be held at the office of the undersigned Conciliation Commissioner-Referee, 318 Katz Bldg., San Bernardino, California, on Wednesday, the 3rd., day of March, 1943, at the hour of Ten o'clock A. M., of said day, when all parties interested may appear and present their evidence in the manner provided by Law.

Dated, February, 16th., 1943.

FRED DUFFY

Conciliation Commissioner-
Referee for San Bernardino County, California.

I hereby certify that on Feby. 16th 1943 I mailed to all parties in interest copy of above named notice of hearing. That the notice mailed to Peter J. Wumkes a secured creditor was addressed to 10800 Lindbrook Ave West Wood Village

FRED DUFFY

Concil. Comm.-Referee [102]

To the Creditors of James Goodwin Powell and Anna Strachan Powell, of Redlands, San Bernardino County, and District and State Afore-said, Bankrupts:

Notice Is Hereby Given that a Petition Requesting Court Re-appraisal or Hearing to Determine Value of Debtors' Real Property has been duly and regularly filed and that the Honorable Fred Duffy, Conciliation Commissioner, has set said matter for hearing on Tuesday, February 2, 1943, at the hour of ten o'clock A. M., said hearing to be held in the office of the said Fred Duffy, Conciliation Commissioner, 318 Katz Building, San Bernardino, California, at which time the said creditors, or anyone interested, may attend and be heard.

FRED DUFFY

Referee in Bankruptcy under
Section 75(s) of the Bank-
ruptcy Act, San Bernardino
County, California, and
Conciliation Commissioner.

[Endorsed]: Filed 1/20/43. Fred Duffy, Coun-
cil Comm. [103]

[Title of District Court and Cause.]

PETITION REQUESTING COURT RE-APPRAISAL OR HEARING TO DETERMINE
VALUE OF DEBTORS' REAL PROPERTY

To the Honorable Fred Duffy, Conciliation Commissioner of the Above Entitled Court for the County of San Bernardino, State of California.

Your Petitioner, James Goodwin Powell and Anna Strachan Powell, Debtors in the above entitled proceedings, respectfully represents to this Honorable Court as follows, to-wit:

I.

That on or about the 25th day of July 25, 1940, your petitioners filed their joint petition in the above entitled Court praying for relief as provided for in the provisions of Section 75 of the Bankruptcy Act; that the filing of said petition was approved by the above entitled Court and referred to Fred Duffy, Esq., Conciliation Commissioner, for further proceedings.

II.

That on or about the 24th day of October, 1940, your petitioners having been unable to secure acceptance or confirmation of their extension proposal, filed their amended petition and [104] were adjudicated bankrupts in accordance with the provisions of Section 75(s) of the Bankruptcy Act; and that the above entitled matter was referred to

the Honorable Fred Duffy, Conciliation Commissioner, for further proceedings; that thereafter on the 16th day of June, 1941, said Honorable Fred Duffy, Conciliation Commissioner, made and entered an order setting aside exempt properties to debtors, giving debtors possession of their properties for a period of three years, and setting the rental to be paid by the debtors.

III.

That scheduled by debtors in their schedules was the following described real property owned by debtors and situated in the County of San Bernardino, State of California, more particularly described as follows, to-wit:

Parcel 1: That property in the City of Redlands, County of San Bernardino, State of California, described as:

That portion of the Northwest quarter of the Southeast quarter of Section 21, Township 1 South, Range 3 West, San Bernardino Base & Meridian, described as: Beginning on the north line of said northwest quarter of Southeast quarter 1008.87 feet East of the Northwest corner of said southeast quarter; thence south along the east line of land of Israel Beal, 853.33 feet to a point 466.67 feet north of the south line of said northwest quarter of the southeast quarter; thence west 342 feet; thence north and parallel with first course herein, 853.33 feet; thence East 342 feet to beginning; Except that portion conveyed to the Lugo Water Com-

pany by deed recorded in Book 438 of Deeds, at page 384 described as follows: Commencing at the northeast corner of the southeast $\frac{1}{4}$ of said section; thence West along the center line of Lugonia Avenue, 1716 feet for point of beginning; thence South 0 degrees 12' East 48 feet; thence West 55 feet; thence north 0 degrees 12' West 48 feet; thence east 55 feet to the place of beginning. Together with Four (4) shares of the capital stock of the Lugo Water Company, a corporation.

Parcel 2: That property in the City of Redlands, County of San Bernardino, State of California, described as:

All that portion of the northwest quarter of the southeast quarter of Section 21, Township 1 South Range 3 West, San Bernardino Base & Meridian, in the City of Redlands, according to Government Survey, [105] described as follows:

Beginning at a point on the east boundary line of the above described tract, which is 718.07 feet north from the southeast corner thereof; thence running north along the east boundary line thereof 597.08 feet, more or less, to the northeast corner of said tract; thence west along the north boundary line thereof, 311.13 feet, more or less, to a point which is 1,008.87 feet east from the northwest corner of said tract; thence southerly on a line parallel with the east boundary of said tract 597.08

feet, more or less, to a point due west of the point of beginning; thence east 311.13 feet, more or less, to the beginning. Together with 5 shares of the capital stock of the Lugonia Water Company, a corporation.

IV.

That your petitioners are desirous of having this Court appoint appraisers to reappraise the above described real property or, in the alternative, in the discretion of this Court, to call a meeting or hearing to determine the value of your petitioners' real property.

Wherefore, your petitioners pray and request that this Court appoint appraisers to reappraise the debtors' real property under the provisions of subsection (3) of Section 75(s) of the Bankruptcy Act and/or, in the discretion of this Court, that the Court set a time and place for a hearing in the above entitled proceedings to determine the value of the debtors' real property.

Respectfully submitted.

JAMES GOODWIN POWELL

Debtor

H. R. GRIFFIN

Attorney for Debtor

[Endorsed]: Filed 12/23/42. Fred Duffy, Council Comm. [106]

State of California,
County of San Bernardino—ss

James Goodwin Powell being by me first duly sworn, deposes and says: That he is one of the Petitioners in the above entitled action; that he has read the foregoing Petition and knows the contents thereof; and that the same is true of his own knowledge, except as to the matters which are therein stated upon his information or belief, and as to those matters that he believes it to be true.

JAMES GOODWIN POWELL

Subscribed and sworn to before me this 23rd day
of December, 1942

H. R. GRIFFIN

(Seal) Notary Public in and for Said
County and State

[Endorsed]: Filed July 19, 1943. Edmund L
Smith, Clerk, by E. M. Enstrom, Deputy. [107]

[Title of District Court and Cause.]

NOTICE OF HEARING PETITIONS
TO REVIEW

To James Goodwin Powell and Anna Strachan
Powell, the Debtors Above Named, and to H. R.
Griffin, Esq., Attorney at Law:

You, and each of you, will please take notice that
on Tuesday, August 10, 1943, at the hour of 10:00
o'clock, A. M., before the Hon. Leon R. Yankwich,
Judge of the United States District Court, in the

Federal Building, Los Angeles, California, the petitions to review those certain orders of May 18, 1943, and April 9, 1943, made and entered in these proceedings by the Hon. Fred Duffy, Conciliation Commissioner for the County of San Bernardino, will be heard.

Dated this 30th day of July, 1943.

NICHOLS, COOPER & HICK-
SON

Attorneys for Petitioner

By (ILLEGIBLE)

Of Counsel [108]

[Title of District Court and Cause.]

AFFIDAVIT OF MAILING

State of California

County of Los Angeles—ss

Jean Sinness, on oath, says: I am a citizen of the United States, and a resident of said County. I am over the age of eighteen years and not a party to the above-entitled action. My business address is 650 South Spring Street, Los Angeles, California. On the 31st day of July, 1943, I served the attached Notice of Hearing Petitions to Review on the above-named debtors and on H. R. Griffin, Esq., Attorney at Law, by putting a true copy thereof enclosed in each of three sealed envelopes addressed as follows: one to James Goodwin Powell, c/o H. R. Griffin, Esq., Attorney at Law, Katz

Building, San Bernardino, California; one to Anna Strachan Powell, c/o H. R. Griffin, Esq., Attorney at Law, Katz Building, San Bernardino, California; and one to H. R. Griffin, Esq., Attorney at Law, Katz Building, San Bernardino, California, in the postoffice at Los Angeles, California, with postage thereon fully prepaid. There is regular communication by mail between the place of mailing and the place so addressed.

JEAN SINNESS

Subscribed and sworn to before me this 31st day of July, 1943.

CLARA KLEINMAN

Notary Public in and for said
County and State.

[Endorsed]: Filed Aug. 2, 1943. [109]

[Title of District Court and Cause.]

AFFIDAVIT RE APPRAISAL OF PROPERTY
OF LOUIS A. TURNER.

State of California

County of Los Angeles—ss.

Louis A. Turner, being first duly sworn, deposes and says:

That he is engaged in the business of growing, packing and shipping citrus fruit; that he has engaged in said business since 1925; that he is familiar with the properties in the Redlands citrus district and particularly with the orange grove owned by

James Goodwin Powell and Anna Strachan Powell upon which Peter J. Wumkes has a lien; that your affiant has gone over said properties on several occasions during the past six months; that said property consists of approximately $6\frac{1}{2}$ acres and is planted with approximately 800 trees, $\frac{3}{4}$ ths to valencias and $\frac{2}{5}$ ths to navels; that your affiant has made thousands of appraisals of properties; that he has made all of the appraisals for James A. Burrell and Hale P. Powers both of whom have bought and sold hundreds of acres of citrus property upon the appraisals made by your affiant; that your affiant is familiar with the value of the Powell property since March 1st, 1943 and fixes the value thereof at \$8,500.00.

L. A. TURNER

Subscribed and Sworn to before me this 17th day of September, 1943.

ETHYL BALDWIN

Notary Public in and for said
(Seal) County and State. [111]

Received copy of the within affi. this 20th day of Sept., 1943.

H. R. GRIFFIN

[Endorsed]: Filed Sept. 20, 1942. [112]

[Title of District Court and Cause.]

AFFIDAVIT RE APPRAISAL OF PROPERTY
OF K. C. O'BRYAN [113]

State of California,
County of Los Angeles,—ss.

K. C. O'Bryan, being first duly sworn, deposes and says: That he is the President of Southern Citrus Association, a corporation engaged in the growing, packing and shipping of citrus fruits; that he has lived in the Redlands citrus district for the past seventeen years; that in connection with the operation of his business he has made hundreds of inspections and appraisals of citrus properties in this location; that he is familiar with the orange grove owned by James Goodwin Powell and Anna Strachan Powell upon which Peter J. Wumkes holds a note secured by Deed of Trust and during several seasons handled the fruit from said property; that said property consists of approximately six and seven tenths acres and is planted with 798 trees, of which 494 are valencias and 304 navels. That affiant owns several citrus properties in the vicinity of the Powell grove; that he has on numerous recent occasions gone over the Powell property; that he is familiar with the value of said property as it existed during the year 1943; that based on said experience, this affiant fixes the reasonable value of said property on March 4th, 1943 and at the present time, at the sum of \$8,000.00; that your affiant is familiar with the terms of sale

of an orange grove across the street from the Powell grove, which was sold shortly after the month of March, 1943, for a price in excess of \$1,100.00 per acre, which property was considered of the [114] same general class as the Powell property and that other groves in the immediate vicinity of the Powell grove have sold recently for as high as \$2,000.00 per acre.

That in appraising said property, your affiant, if permitted to purchase said property, would be willing to pay the sum of \$6,500.00 cash and herewith makes such an offer.

K. C. O'BRYAN

Subscribed and Sworn to before me this 16th day of September, 1943.

ETHYL BALDWIN

Notary Public in and for
County of Los Angeles,
(Seal) State of California. [115]

Received copy of the within this 20th day of Sept., 1943.

H. R. GRIFFIN

[Endorsed]: Filed Sept. 20, 1943. [116]

[Title of District Court and Cause.]

AFFIDAVIT OF CREDITOR

State of California,
County of Los Angeles,—ss.

Peter J. Wumkes, being first duly sworn, deposes and says: That he is a creditor of the above-named debtors, James Goodwin Powell and Anna Strachan Powell; that said indebtedness arises by reason of Trust Deeds taken upon property sold to said debtors during the year 1938; that the total sale price of said property at said time was \$13,500.00, of which \$2,500.00 was paid in cash the balance being secured by Trust Deeds against said property; that since said time said debtors have paid absolutely nothing on account of said Trust Deeds, nor has said creditor received notice of any funds being deposited for his account by said debtors. That since said debtors filed their petition in bankruptcy, your affiant has received nothing whatsoever and neither has he received any payments whatsoever on account of rent order made by the Conciliation Commissioner on the 16th day of June, 1941, by which order one-fourth of the proceeds of the crop were fixed as rental to be paid each year starting June 1st, 1942. [117]

That your affiant further believes and upon such information and belief alleges the fact to be that there is due and a lien against the property of said debtors, upon which your affiant has a lien, a sum in excess of Two Hundred Dollars due the County of San Bernardino and the City of Redlands for delinquent taxes for the years 1938 and 1939.

That your affiant owned the property in question for approximately two years prior to the sale to the above-named debtors and since the sale to said debtors has on numerous occasions, inspected said property and is familiar with the condition thereof and is familiar with values of property in the immediate vicinity of debtors' property, as well as with the value of debtors' property. That your affiant alleges the value of said property of said debtors to be the sum of \$10,000.00

PETER J. WUMKES

Creditor

Subscribed and Sworn to before me this 17th day of September, 1943.

ETHYL BALDWIN

Notary Public in and for above County and State.

(Seal) [118]

Received copy of the within aff. this 20th day of Sept., 1943.

H. R. GRIFFIN

[Endorsed]: Filed Sept. 20, 1943. [119]

AFFIDAVIT OF DONALD P. NICHOLS

State of California,

County of Los Angeles,—ss.

Donald P. Nichols, being first duly sworn, deposes and says: That he is a member of the firm of Nichols, Cooper & Hickson, attorneys for Peter J. Wumkes in the matter of the bankruptcy of

James Goodwin Powell and Anna S. Powell; that on the hearing of the petition for re-determination of appraised value of property of the bankrupts, your affiant presented to the Conciliation Commissioner an offer, in writing, upon the property against which Mr. Wumkes holds a lien, in the sum of \$5500.00 and attached thereto a check in the amount of \$550.00; that said cash offer was made by Orange Belt Fruit Distributors. That the Conciliation Commissioner refused to receive said offer and refused to permit your affiant, as counsel, to file said offer with said Conciliation Commissioner. That after the petition for review was filed, your affiant, on several occasions, requested of the Conciliation Commissioner, a statement or accounting as to disbursement of funds which had been received by the Conciliation Commissioner. That the said Conciliation Commissioner has at all times refused to furnish either your affiant or the said Peter J. Wumkes, creditor, with any statement of accounting whatsoever, and has refused to furnish affiant with a statement showing that no monies whatsoever have been paid to said Peter J. Wumkes on account of the rent order which was made in said proceedings. [120]

DONALD P. NICHOLS

Subscribed and Sworn to before me this 20th day of September, 1943.

(Seal)

ETHYL BALDWIN

Notary Public in and for above County and State.

[Endorsed]: Filed Sept. 20, 1943. [121]

OFFER TO PURCHASE

The undersigned, hereby offers to purchase the property hereinafter described, being known as the James Goodwin Powell property upon which P. J. Wumkes holds a Trust Deed and does hereby offer to purchase said property for the sum of \$7,000.00 and does hereby tender cashier's check of \$700.00 being ten per cent (10%) of the amount of said offer, the balance to be paid in cash at the time title to said property can be conveyed to the undersigned free and clear of encumbrances except reservations and restrictions of record.

The property on which the offer of purchase is made is described as follows:

That property in the City of Redlands, County of San Bernardino, State of California, described as:

That portion of the Northwest quarter of the Southeast quarter of Section 21, Township 1 South, Range 3 West, San Bernardino Base & Meridian, described as: Beginning on the North line of said northwest quarter [122] of Southeast quarter 1008.87 feet East of the Northwest corner of said Southeast quarter; thence South along the East line of land of Israel Beal, 853.33 feet to a point 466.67 feet North of the South line of said Northwest quarter of the Southeast quarter; thence West 342 feet; thence North and parallel with first course herein, 853.33 feet; thence East 342 feet to beginning;

Except that portion conveyed to the Lugo

Water Company by Deed recorded in Book 438 of Deeds, at page 384 described as follows:

Commencing at the Northeast corner of the Southeast $\frac{1}{4}$ of said section; thence West along the center line of Lugonia Avenue, 1716 feet for point of beginning; thence South 0 degrees 12' East 48 feet; thence West 55 feet; thence North 0 degrees 12' West 48 feet; thence East 55 feet to the place of beginning.

Together With Four (4) shares of the capital stock of the Lugo Water Company, a corporation.

Dated this 17th day of September, 1943.

JOHN CURCI

[Endorsed]: Filed Sept. 20, 1943. [123]

In the District Court of the United States
Southern District of California
Central Division

No. 36775-C

In the Matter of

JAMES GOODWIN POWELL and ANNA
STRACHAN POWELL, husband and wife,
Debtors.

Book 21 Page 210

ORDER

The Petition on Review of Peter J. Wumkes from those two orders of the Conciliation Commissioner

of San Bernardino County dated April 9th, 1943 and May 18th, 1943, respectively, coming on to be heard the 20th day of September, 1943 before the Honorable Leon R. Yankwich, Judge of the above entitled Court, the petitioner appearing in person and by his counsel Messrs. Nichols, Cooper & Hickson, by Donald P. Nichols and C. P. Von Herzen, Esquires, and the debtors appearing by their counsel, H. R. Griffin, Esq., and the Court having considered the certificates on review, the evidence and the proofs submitted, and having heard the argument of counsel with respect thereto, and being fully advised in the premises, now makes its order as follows:

It Is Ordered and Adjudged that the order of the Conciliation Commissioner of San Bernardino County dated April 9th, 1943, be and the same is hereby reversed; [124]

It Is Further Ordered and Adjudged that the order of the Conciliation Commissioner of San Bernardino County dated May 18th, 1943, be and the same is hereby reversed;

It Is Further Ordered and Adjudged that this matter be referred to the Conciliation Commissioner of San Bernardino County for a further hearing on the matter of the value of the real property in controversy, and that upon such further hearing, or prior thereto, the petitioner herein, Peter J. Wumkes, pay to the attorney for the debtors, the sum of Fifty Dollars (\$50.00) as a condition precedent to such further hearing.

Dated: September 30, 1943.

LEON R. YANKWICH

United States District Court
Judge

Judgment entered Oct. 1, 1943. Docketed Oct. 1,
1943. Book 21, Page 210.

EDMUND L. SMITH,

Clerk,

By LOUIS J. SOMERS

Deputy.

Approved as to form:

C. P. VON HERZEN

For Nichols, Cooper & Hick-
son

H. R. GRIFFIN

Attorney for Debtors

[Endorsed]: Filed Sept. 30, 1943. [125]

[Title of District Court and Cause.]

NOTICE OF APPEAL

To the United States Circuit Court of Appeals for
the Ninth Circuit Court for Rule 73(b).

Notice Is Hereby Given That, James Goodwin
Powell and Anna Strachan Powell, husband and
wife, debtors in the above bankruptcy proceeding,
hereby appeal to the United States Circuit Court
of Appeals for the Ninth Circuit, from the order
and judgment of the Honorable Leon R. Yankwich,

Judge of the United States District Court, made, entered and filed in the records of the above said Court on the 30th day of September, 1943, reversing the order of the Conciliation Commissioner of San Bernardino County made and dated April 9, 1943, and further reversing the order of the Conciliation Commissioner of San Bernardino County dated May 18, 1943, and further ordering that said matter be referred to the Conciliation Commissioner of San Bernardino County for a further hearing on the matter of the value of the real property in controversy, and that upon such further hearing, or prior thereto, the petitioner therein, Peter J. Wumkes, pay to the attorney for the debtors the sum of Fifty (\$50.00) Dollars as a condition precedent to such further hearing, and from each of them.

Dated this 26th day of October, 1943.

H. R. GRIFFIN

Attorney for Debtors and Appellants. [126]

Notice is further given that the parties interested in this appeal are Peter J. Wumkes represented by Messrs. Nichols, Cooper and Hixon, 412-418 First National Building, Pomona, California, and C. P. Von Herzen, 453 South Spring Street, Los Angeles, Attorneys at Law.

Copies mailed 10/29/43

TH

[Endorsed]: Filed Oct. 27, 1943. [127]

[Title of District Court and Cause.]

UNDERTAKING FOR COSTS ON APPEAL

Know All Men By These Presents, that the Fidelity and Deposit Company of Maryland, a corporation organized and existing under the laws of the State of Maryland, and duly licensed to transact business in the State of California, is held and firmly bound unto Peter J. Wumkes, in the penal sum of Two Hundred Fifty and No/100—Dollars (\$250.00), to be paid to the said Peter J. Wumkes, his successors or assigns, or legal representatives, for which payment well and truly to be made, the Fidelity and Deposit Company of Maryland binds itself, its successors and assigns, firmly by these presents.

The Condition of the Above Obligation Is Such that

Whereas, James Goodwin Powell and Anna Strachan Powell, husband and wife, have appealed, or are about to appeal to the United States Circuit Court of Appeals for the Ninth Circuit, from an Order and Judgment of the Honorable Leon R. Yankwich, Judge of the United States District Court, made, entered and filed in the records of the above said Court on the 30th day of September, 1943, reversing the Order of the Conciliation Commissioner of San Bernardino County made and dated April 9, 1943, and further reversing the Order of the Conciliation Commissioner of San Bernardino County dated May 18, 1943, in the above entitled action. [128]

Now, Therefore, if the above named Appellants, James Goodwin Powell and Anna Strachan Powell, husband and wife, shall prosecute said appeal to effect and answer all costs which may be adjudged against them if the appeal is dismissed, or the Order affirmed, or such costs as the Appellate Court may award if the Order is modified, or in any other event, then this obligation shall be void; otherwise to remain in full force and effect.

It Is Hereby Agreed by the Surety that in case of default or contumacy on the part of the Principals or Surety, the Court may, upon notice to them of not less than ten days, proceed summarily and render judgment against them, or either of them, in accordance with their obligation, and award execution thereon.

Signed, sealed and dated this 27th day of October, 1943.

FIDELITY AND DEPOSIT
COMPANY OF MARYLAND

By W. M. WALKER

Attorney in Fact

Attest S. M. SMITH

Agent

Examined and recommended for approval as provided in Rule 13.

H. R. GRIFFIN

Attorney

State of California,
County of Los Angeles,—ss:

On this 27th day of October, 1943, before me, Theresa Fitzgibbons, a Notary Public, in and for the said County of Los Angeles, State of California, residing therein, duly commissioned and sworn, personally appeared W. M. Walker, known to me to be the Attorney-in-Fact, and S. M. Smith, known to me to be the Agent of the Fidelity and Deposit Company of Maryland, the Corporation that executed the within instrument, and acknowledged to me that they subscribed the name of the Fidelity and Deposit Company of Maryland thereto and their own names as Attorney-in-Fact and Agent, respectively.

THERESA FITZGIBBONS

Notary Public in and for the County of Los Angeles, State of California.

My Commission Expires May 3, 1946.

[Endorsed]: Filed Oct. 27, 1943. [129]

[Title of District Court and Cause.]

DESIGNATION OF PORTIONS OF RECORD
TO BE CONTAINED IN RECORD ON AP-
PEAL

To the Above Honorable Court and to the Clerk
Thereof:

Notice Is Hereby Given that James Goodwin
Powell and Anna Strachan Powell, husband and

wife, debtors and appellants, do hereby designate that the complete record and all of the proceedings and evidence in the above entitled matter are to be contained in the Record on Appeal.

Dated this 2nd day of November, 1943.

H. R. GRIFFIN

Attorney for Debtors and Ap-
pellants [130]

[Title of District Court and Cause.]

AFFIDAVIT OF MAILING

State of California

County of San Bernardino—ss.

Beatrice Oie, being first duly sworn, deposes and says: That her business address is 408 Katz Building, San Bernardino, California; that she is a citizen of the United States, and a resident of the County of San Bernardino; that she is over the age of eighteen years, and not a party to the above-entitled cause; that on the 2nd day of November, 1943, she placed a copy of the Designation of Portions of Record to Be Contained in Record on Appeal herein in an envelope addressed to the following persons and at the following address: Nichols, Cooper and Hickson, 412-18 First National Building, Pomona, California, sealed said envelope and deposited it in the U. S. mail at San Bernardino, California, with the postage thereon fully prepaid; that there is a regular communication by mail between the place of mailing and the place so addressed.

BEATRICE OIE

Subscribed and sworn to before me this 2nd day of November, 1943.

H. R. GRIFFIN

Notary Public in and for said County and State.

[Endorsed]: Filed Nov. 3, 1943. [131]

[Title of District Court and Cause.]

CERTIFICATE OF CLERK

I, Edmund L. Smith, Clerk of the District Court of the United States for the Southern District of California, do hereby certify that the foregoing pages numbered from 1 to 131 inclusive contain full, true and correct copies of: Debtor's Petition and Schedules; Approval of Debtor's Petition and Order of Reference; Amended Petition; Certificate of Conciliation Commissioner; Adjudication, Order of Reference and Temporary Restraining Order; Certificate on Review of Conciliation Commissioner's Order Dated May 18, 1943; Petition to Review Order of the Conciliation Commissioner under Date of May 18, 1943; Envelopes; Orders Extending Time for Filing Petition for Review; Notice of Order Denying Petition for Rehearing to Determine Value of Real Property; Order Denying Petition for Rehearing to Determine Value of Real Property; Notice of Hearing; Petition for Rehearing to Determine Value of Real Property; Certificate on Review of Conciliation Commissioner's Order of April 9, 1943 Finding Value of Real Property; En-

velope; Petition to Review Order of The Conciliation Commissioner under Date of April 9, 1943; Order Extending Time for Filing Petition for Review; Certificate Extending Time for Filing Petition for Review; Petition for Certificate Extending Time for Filing Petition for Review; Letter Dated May 11, 1943; Petition for Review of Order of Conciliation Commissioner; Notice of Entry of Order Determining Value of Debtors' Real Property; Order Determining Value of Debtors' Real Property; Findings of Fact and Conclusions of Law; Decision; Exhibits 1, 4, 8, 9, 10, 11, 12, 15, 16 and 17; Notice of Hearing; Notice; Petition Requesting Court Re-Appraisal or Hearing to Determine Value of Debtors' Real Property; Notice of Hearing Petitions to Review; Affidavit of Louis A. Turner; Affidavit of K. C. O'Bryan; Affidavit of Peter J. Wumkes; Affidavit of Donald P. Nichols; Offer to Purchase; Order; Notice of Appeal; Undertaking for Costs on Appeal and Designation of Portions of Record to be Contained in Record on Appeal which constitute the record on appeal to the Circuit Court of Appeals for the Ninth Circuit.

I further certify that my fees for comparing, correcting and certifying the foregoing record amount to \$48.45 which sum has been paid to me by Appellants.

Witness my hand and the seal of said District Court this 11th day of November, 1943.

. [Seal]

EDMUND L. SMITH,

Clerk.

By THEODORE HOCKE

Deputy Clerk.

[Endorsed]: No. 10610. United States Circuit Court of Appeals for the Ninth Circuit. James Goodwin Powell and Anna Strachan Powell, husband and wife, Appellants vs. Peter J. Wumkes, Appellee. Transcript of Record. Upon Appeal from the District Court of the United States for the Southern District of California Central Division.

Filed November 13, 1943.

PAUL P. O'BRIEN

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals
For the Ninth Circuit.

No. 10610

In the Matter of

JAMES GOODWIN POWELL and
ANNA STRACHAN POWELL,
Husband and wife,

Debtors.

STATEMENT OF POINTS ON APPEAL

To The Above Honorable Court,

Appellants hereby designate the following points upon which they intend to rely upon said appeal, as follows:

I.

That the Honorable District Court of the United States erred in reversing the Order of the Concili-

ation Commissioner made and dated April 9, 1943, wherein said Conciliation Commissioner made and entered his Order determining the value of certain property which secured the claim of Peter J. Wumkes.

II.

That the Honorable District Court of the United States erred in reversing the Order of the Conciliation Commissioner made and dated May 18, 1943, wherein said Conciliation Commissioner made and entered his Order denying the Petition of said Peter J. Wumkes for a rehearing of the bankrupts' Petition to Determine Value of Real Property concerned in said proceedings.

III.

That there was insufficient evidence to justify the foregoing decisions of the District Court of the United States, or either of them.

IV.

That the decisions of the District Court of the United States were contrary to the law made and propounded for such matters.

V.

That said District Court admitted and considered improper and illegal evidence in the making of said decisions, and each of them, to-wit, the admission of offer to purchase made by one Louis A. Turner, and offers by John Curci, K. C. O'Bryan, and others.

VI.

That said Honorable District Court erred in reversing the Conciliation Commissioner's Order of May 18, 1943, in that said Petition for a Rehearing of the bankrupts' Petition to Determine Value of Real Property did not state sufficient facts to warrant the granting of a rehearing of said bankrupts' Petition.

VII.

That the above said Orders of the Conciliation Commissioner were made within the discretion of said Commissioner and that said Honorable District Court erred in reversing said Orders.

Dated this 24 day of November, 1943.

H. R. GRIFFIN

Attorney for Debtors and
Appellants.

(Affidavit of Service by Mail attached.)

[Endorsed]: Filed Nov. 26, 1943. Paul P.
O'Brien, Clerk.

